

ZONING

TOWN OF MONTROSS, VIRGINIA

This pamphlet is a reprint of Chapter 66, Zoning, of The Code of the Town of Montross, Virginia, published by order of the Town Council.



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Municipal Code Corporation • PO Box 2235 Tallahassee, FL 32316
info@municode.com • 800.262.2633
fax 850.575.8852 • www.municode.com

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ZONING*

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ARTICLE I. IN GENERAL**Sec. 66-1. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Words and terms not defined in this section shall be interpreted in accord with such normal dictionary meaning or customary usage as is appropriate to the context:

Accessory building means a building used for purposes customarily incidental and clearly subordinate to the principal use of the lot on which it is located.

Accessory use means a use of land or a use of a building for purposes customarily incidental and clearly subordinate to the principal use of the lot on which it is located.

Alley means a public way affording or intended to afford secondary means of vehicular access to abutting properties and situated along the side or rear of such properties.

Auto service center means an establishment for the servicing and minor repair of motor vehicles within enclosed service bays or stalls, and which may include the dispensing of motor fuels and related products at retail and the sale of minor automobile parts and accessories such as tires, batteries, spark plugs, fan belts, shock absorbers, cleaning and polishing materials and similar items. The term "auto service center" shall not include any establishment engaging in general auto or truck repair, body repair or painting, welding, frame straighten-ing, tire recapping or vulcanizing, storage of wrecked vehicles or any operation involving the installation or removal of engines, cylinder heads, crankcases, radiators, transmissions, differentials, or major body or mechanical parts.

Auto service station means an establishment for the dispensing of motor fuels and related products at retail and having pumps, underground storage tanks and other facilities for such activity, and which may include the retail sale of minor automobile parts and accessories such as tires, batteries, spark plugs, fan belts, shock absorbers, cleaning and polishing materials and similar items, and which may include the inspection, servicing or minor repair of motor vehicles in enclosed service bays or stalls. An auto service station shall not include any establishment engaging in general auto or truck repair, body repair or painting, welding, storage of wrecked vehicles or any operation involving the installation or removal of engines, cylinder heads, crankcases, radiators, transmissions, differentials, or major body or mechanical parts.

Automobile graveyard means any lot or place which is exposed to the weather and upon which more than five motor vehicles of any kind, incapable of being operated, and which it would not be economically practical to make operative, are placed, located or found.

Bed and breakfast facility means a facility within an owner-occupied single-family dwelling for the housing of persons on a transient basis for not more than seven consecutive nights; containing not more than two lodging units for such persons, which units are provided with private baths; and within such facility no meals other than breakfast are served to guests.

Board of zoning appeals means the board of zoning appeals of the town, the composition, powers and duties of which are set forth in article IX of this chapter.

Building means a combination of any materials, whether portable or fixed, that forms a structure for use or occupancy by persons or property. The term "building" or "structure" includes any part thereof, and the term "building" includes the term "structure."

Building official means the official designated to enforce the provisions of the Virginia Uniform Statewide Building Code within the jurisdiction of the town.

Child care center means any facility operated for the purpose of providing care, protection and guidance to a group of more than five children separated from their parents or guardians during a portion of the day, not including children of a family residing on the premises. The term "child care center" shall include family day homes as licensed by the state.

Completely enclosed building means a building enclosed on all sides and having no outside openings other than ordinary doors, windows and means of ventilation.

Development site means all of the land developed or intended to be developed for single-family attached dwellings and related accessory uses, structures and facilities, when such land is contiguous and under single ownership or control for purposes of planning and initial development. A development site shall include the individual lots on which attached dwellings are or will be located, as well as all open spaces, parking areas, driveways, recreational facilities, community areas and other areas owned or to be owned in common by owners of individual lots within the development.

Dwelling, multifamily, means a building which contains three or more dwelling units.

Dwelling, single-family, means a building which is completely separated from any other main building and which contains only one dwelling unit, as distinguished from a single-family attached dwelling.

Dwelling, single-family attached, means a building which contains one dwelling unit located on an individual lot of record and which is attached by means of party walls in a series of two or more buildings, each of which contains one dwelling unit and is located on a separate lot of record. A building meeting the terms of this definition and commonly known as a "townhouse" shall be considered a single-family attached dwelling for purposes of this chapter.

Dwelling, two-family, means a building which contains two dwelling units.

Dwelling unit means a room or group of rooms within a building and constituting a separate and independent housekeeping unit occupied or intended for occupancy by one family and containing kitchen, sleeping and sanitary facilities. The term "dwelling unit" shall not include a manufactured home, mobile home, recreational vehicle or room or group of rooms within a hotel, motel, tourist home or lodgehouse.

Dwelling use means any principal use containing dwelling or lodging units which are not generally available for occupancy for periods of less than one week, as distinguished from units located within hotels, motels and similar facilities intended for transient occupancy.

Family means one or more persons related by blood, marriage or adoption, including foster children, or not more than five unrelated persons occupying a single dwelling unit. Domestic servants or employees residing on the premises shall be considered as part of a family. The term "family" shall not be construed to include a fraternity, sorority, club or group of persons occupying a hotel, motel, tourist home or lodginghouse, but shall include the occupants of a group home as defined in this section.

Floor area means the sum of the horizontal areas of all usable floors of a building, as measured from the exterior faces of exterior walls, and including all intervening walls, partitions, hallways, corridors, lobbies and stairways. Floor area shall not include unenclosed porches, balconies, carports, garages, or any basement or attic areas which are not improved and available for occupancy.

Frontage means that portion of a lot abutting a street and being situated between the lot lines intersecting the street, also referred to as street frontage.

Group home means a residential facility in which not more than eight mentally ill, mentally retarded or other developmentally disabled persons reside, with one or more resident counselors or other staff persons, the purpose of such facility being to provide to its occupants the benefits of normal residential surroundings to achieve optimal assimilation into the community. The term "group home" shall include family care homes or foster homes and any other residential facility for which the state department of mental health, mental retardation and substance abuse services is the licensing authority under state law, but shall not include residential facilities the principal purpose of which is to provide emergency shelter, or to provide diagnostic or treatment services for persons currently suffering from illegal use of or addiction to a controlled substance as defined in Code of Virginia, § 54.1-3401.

Health official means the official designated to enforce the requirements of the state department of health.

Height means the vertical distance measured from the average of the lowest and highest elevations of the finished grades immediately adjacent to a building to the highest point of a flat roof, mansard roof or parapet, or to the midpoint of a gable, hip or shed roof, or to the highest point of any structure having no roof.

Home occupation means an occupation, profession, enterprise or similar activity conducted within a dwelling unit which is the residence of the practitioner, or conducted within an accessory building located on the same lot and clearly incidental to the dwelling unit. In order to qualify as a home occupation, an activity as described in this definition must be clearly secondary to the principal dwelling use of the premises and must meet all of the following criteria, which are intended to distinguish such activity from other business uses:

- (1) Not more than 25 percent of the floor area of the main building shall be devoted to such activity;
- (2) No one other than a member of the family residing on the premises shall be employed on the premises in the conduct of the activity;

- (3) There shall be no signs, other than one sign not exceeding four square feet in area attached to the building, and no displays or alterations to the exterior of the building that would distinguish it as being devoted to any nondwelling use;
- (4) There shall be no group instruction or assembly, no housing of persons for compensation, and no product offered for sale or stored other than that which is incidental to a service rendered directly to persons on the premises; and
- (5) No mechanical equipment or machinery shall be used in the conduct of a home occupation that produces noise, smoke, odor, vibration or other effect discernable beyond the property lines.
- (6) In order to qualify for special use permit designation as a home occupation described in this definition, not more than 40 percent of the floor area of the main building shall be devoted to such activity, and no more than one person other than a member of the family residing on the premises shall be employed on the premises in the conduct of the activity.

Hospital means a facility in which the primary function is the provision of diagnostic, treatment, medical and nursing services, surgical or nonsurgical, for two or more nonrelated individuals, and which provides inpatient beds, but not including a facility exclusively or primarily for the care and treatment of psychiatric patients or persons suffering from substance abuse.

Hotel means a building or group of buildings on the same lot containing lodging units for transient guests principally on a daily basis, for which housekeeping services are provided, and in which each lodging unit has a separate entrance through a common lobby. The term "hotel" is intended to apply to inns, lodges and similar facilities, except when such conform to the definition of a motel or tourist home as set forth in this section.

Junkyard means an establishment or place of business which is maintained, operated or used for storing, keeping, buying or selling junk, or for the maintenance or operation of an automobile graveyard, and the term shall include garbage dumps and sanitary fills.

Kennel means any lot, structure or enclosure used for the keeping, boarding, raising or breeding of dogs or cats for commercial or noncommercial purposes, and involving four or more such animals over the age of four months. A noncommercial facility housing a fewer number of such animals as household pets on the same lot as a dwelling use shall not be construed to be a kennel, but shall be considered an accessory use or structure.

Land. The term "land" includes the terms "water" and "marsh."

Lodging unit means a room or group of rooms within a building, constituting living quarters for one or more persons, and not containing kitchen facilities. A room or group of rooms within a hotel, motel or tourist home constituting living quarters for transient guests shall be considered a lodging unit even though it may contain partial or complete kitchen facilities.

Lodginghouse means a building containing lodging units for more than two but not more than ten persons, with or without board, and where such lodging units are not available for

occupancy for periods of less than one week, as distinguished from a hotel, motel or tourist home where occupancy is available to transient guests on a daily basis. The term "lodginghouse" shall include homes for adults when licensed by the state, but shall not include residential facilities which also have as their purpose incarceration, detention, treatment, counseling, training or diagnostic services or programs intended for a specific client population.

Lot means a parcel of land occupied or intended for occupancy by buildings or uses permitted by the provisions of this chapter, together with such area, yards and other open spaces as are required by this chapter. The term "lot" includes the terms "tract" and "parcel" and may consist of a single lot of record, a combination of contiguous lots of record, or a unit of land described by metes and bounds.

Lot, corner, means a lot abutting upon two or more streets at their intersection, or a lot bounded entirely by streets.

Lot line means any boundary of a lot, including a boundary which constitutes a street right-of-way line.

Lot of record means a lot which is part of a subdivision recorded in the office of the clerk of the circuit court, or a lot or parcel which is described by metes and bounds and is similarly recorded.

Lot, through, means a lot other than a corner lot having frontage along more than one street.

Lot width means the minimum horizontal distance between the side lines of a lot measured between the points where the minimum required front yard line intersects the side lines of the lot. On a corner lot or through lot on which more than one front yard is required, the lot width shall be measured adjacent to the frontage with the least dimension.

Main and principal. The terms "main" and "principal" are synonymous.

Main building means a building in which is conducted the principal or main use of the property on which the building is located.

Manufactured home means any structure complying with the Federal Manufactured Housing Construction and Safety Standards, which is transportable in one or more sections; is eight body feet or more in width and 40 body feet or more in length in the traveling mode, or is 320 or more square feet when erected on site; is built on a permanent chassis; is designed to be used for dwelling purposes, with or without a permanent foundation, when connected to the required utilities; and includes the plumbing, heating, air conditioning and electrical systems contained in the structure.

Mobile home means a structure of vehicular, portable design, used for dwelling purposes by one family on a temporary or yearround basis, built on a chassis and designed to be moved from one site to another and to be used without a permanent foundation.

Motel means a building or group of buildings on the same lot containing lodging units for transient guests principally on a daily basis, for which housekeeping services are provided, and in which each lodging unit has a separate entrance from the outside as opposed to through

a common lobby. The term "motel" is intended to apply to motor inns, motor lodges, motor courts, tourist courts and similar facilities, except when such conform to the definition of hotel or tourist home as set forth in this section.

Nonconforming building means a building having one or more nonconforming features.

Nonconforming feature means a feature of a use, as distinguished from the use itself, or a feature of a building, which feature was lawfully existing at the effective date of the ordinance from which this chapter is derived or the date of a subsequent amendment to this chapter, and does not conform with the requirements established by this chapter or any amendment thereto. Features of uses or buildings shall be construed to include density, lot area, lot dimensions, yards, open spaces, height, bulk, number of occupants, screening, landscaping, lighting and off-street parking requirements. A building having any such nonconforming feature may be referred to as a "nonconforming building."

Nonconforming sign means a sign which was lawfully existing at the effective date of the ordinance from which this chapter is derived or the date of a subsequent amendment to this chapter, which sign does not conform with the area, height, location, placement, type, number or other regulations pertaining to signs established by this chapter or any amendment thereto.

Nonconforming use means a principal or accessory use of land or of a building, which use was lawfully existing at the effective date of the ordinance from which this chapter is derived or the date of a subsequent amendment to this chapter, and is not a permitted use under the provisions of this chapter or any amendment thereto.

Nursing home means any facility or any identifiable component of any facility in which the primary function is the provision, on a continuing basis, of nursing services and health-related services for the treatment and inpatient care of two or more nonrelated individuals. A nursing home shall include facilities known by varying nomenclature or designation such as convalescent homes, skilled care facilities, intermediate care facilities, extended care facilities and infirmaries, except for such exclusions as may be provided under applicable state law.

Off-street parking space means an area for the parking of one motor vehicle located other than within a public street or public alley right-of-way and having such dimensions as set forth in section 66-142 and having a permanent means of access to a public street or a public alley without requiring passage through another parking space.

Parking area means a parcel of land or a portion thereof used for the parking of motor vehicles, and including off-street parking spaces as defined in this section as well as the access aisles and maneuvering space directly serving such off-street parking spaces.

Party wall means a wall separating and common to two buildings on individual lots and being of noncombustible material with a fire resistance rating and other characteristics as required by the Virginia Uniform Statewide Building Code.

Plan of development means the proposal for a development, including all plans, drawings and information as required by the provisions of section 66-226, and subject to the requirements, reviews and approval procedures set forth in that section.

Principal use means the main or primary use of a lot or of a building.

Public sewer or water system means a sewer or water system owned and operated by the town or by such other authority as may be authorized by the laws of the state.

Retail stores and shops means buildings wherein the principal activity is the sale of merchandise at retail to the general public, and where such merchandise is typically sold in small quantities and broken lots, and not in bulk. For purposes of illustration, the following shall be considered retail stores and shops: drugstores; newsstands; food stores and super-markets; candy shops; dry goods, notions and clothing stores; boutiques and gift shops; hardware, home furnishings and household appliance and electronics stores; antique shops; furniture stores; florist shops; opticians; shoe stores; jewelry stores; auto accessory stores; and music stores. Establishments for the sale in bulk of coal, wood, fuel, building materials and lumber, and establishments for the sale of vehicles, farm implements, boats, trailers, machinery and similar items, shall not be considered retail stores and shops.

Shopping center means a group of three or more commercial establishments on a site of two acres or more planned, developed, owned and managed as a unit and related in its location, size and types of establishments to the trade area which such unit is intended to serve, and which is provided with off-street parking on the premises.

Sign means a presentation of letters, numbers, figures, pictures, emblems, insignia, lines or colors, or any combination thereof, which can be viewed from a public right-of-way, private road or another property, and which is displayed for the purpose of information, direction or identification or to advertise or promote a business, service, activity, interest or product or any otherwise lawful noncommercial message that does not attract attention to a business operated for profit or to a commodity or service offered for sale, provided that the following shall not be considered signs for the purposes of this chapter:

- (1) The flag, emblem or insignia of a nation or other governmental unit, or a decorative flag or banner, except when displayed in connection with a commercial promotion or as part of a presentation otherwise considered to be a sign.
- (2) Legal notices and identification, informational or directional presentations erected or required to be erected by a governmental body.
- (3) Presentations not exceeding two square feet in area identifying property numbers or addresses or occupants of premises.

Sign, animated, means any sign having a conspicuous and intermittent variation in illumination, message or physical position of any or all of its parts. A time and temperature display which changes its messages not more than once every five seconds or any flag or banner which is entirely dependent upon wind for movement shall not be considered an animated sign.

Sign area means the area of the smallest individual rectangle, triangle or circle or combination of not more than two contiguous rectangles, triangles or circles which will encompass all elements of the sign which form an integral part of the display, including

background, borders and structural trim. The area of a double-faced sign shall be construed to be the area of the largest single face of the sign, provided that the interior angle formed by the two faces does not exceed 30 degrees. A pole, post, upright or similar structural support for a freestanding sign, including pole covers, shall be considered as part of the sign area if such pole, post, upright, structural support or pole cover exceeds 24 inches in width.

Sign, billboard, means a sign used as an outdoor display for the purpose of advertising or promoting a business, service, activity or product which is not located, offered for sale or otherwise related to the use of the premises on which such sign is situated.

Sign, directional, means a sign located on private property and intended for the purpose of directing or guiding traffic or persons or identifying parking spaces, when such sign contains no advertising matter and does not exceed an area of four square feet.

Sign, freestanding, means any sign supported by uprights, poles, posts or braces which are situated upon or anchored within the ground. A freestanding sign shall be considered a structure.

Sign, portable, means a sign consisting of a fixed message or a changeable message panel, which is not attached to a building or anchored within the ground and which is capable of being moved easily from one location to another on its own chassis or by other means. A portable sign shall not be construed as a temporary sign as defined in this section.

Sign, temporary, means any sign denoting a sale or special product promotion or announcing a grand opening, new management or similar event or activity occurring on the premises, when such sign is attached flat against a building wall or located within a window, and when such sign does not remain on the premises for a period exceeding 30 days. A permanently installed changeable message panel shall not be considered a temporary sign.

Special exception means a use or feature permitted in a particular district or under specified circumstances only by approval of the board of zoning appeals pursuant to the provisions of article IX of this chapter.

Special use means a use permitted in a particular district only upon approval of a special use permit by the town council in accordance with the provisions of section 66-227.

Street means the right-of-way within which lies a public or private thoroughfare which affords or is intended for the purpose of affording the principal means of vehicular access to abutting property.

Street line means the right-of-way line of a street.

Structural alteration means any change in the supporting members of a structure, including foundations, bearing walls, bearing partitions, columns, beams or girders, or any change in the supporting members of the roof of a structure or in the means of egress of a structure.

Structure means an assembly of materials forming a construction for use, including stadiums, gospel and circus tents, reviewing stands, platforms, stagings, observation towers, radio towers, water tanks, trestles, piers, wharfs, swimming pools, amusement devices, storage bins and other structures of this general nature.

Tourist home means a building containing lodging units for more than two but not more than ten persons, with or without board, and where such lodging units are available for occupancy by transient guests on a daily basis, and in which access to each lodging unit is provided exclusively from within the building. A tourist home may include a dwelling unit which constitutes the residence of the owner or manager of the facility.

Truck or commercial vehicle means a loaded or empty motor vehicle designed or regularly used for carrying freight, merchandise, or more than ten passengers, including buses.

Usable open space means the area of a lot which is not covered by buildings and is not devoted to parking areas, driveways or other vehicular maneuvering area. Usable open space includes all yard areas, as well as other outdoor space available for active or passive use by occupants of the premises.

Used and occupied. The term "used" or "occupied" includes the terms "intended, designed or arranged to be used or occupied."

Variance means a departure from the strict application of the provisions of this chapter when authorized by the board of zoning appeals pursuant to and in accordance with the provisions of Code of Virginia, § 15.2-2309, as amended, and the applicable provisions of article IX of this chapter.

Yard means an open space on a lot, unoccupied and unobstructed by any structure or portion of a structure from 30 inches above the ground level upward, except as otherwise provided in article V of this chapter.

Yard, front, means a yard extending the full width of a lot and being adjacent and parallel to the street frontage of the lot.

Yard, rear, means a yard adjacent and parallel to the rear lot line of a lot and extending between the minimum required side yards on the lot.

Yard, side, means a yard adjacent and parallel to the side lot line of a lot and extending from the minimum required front yard to the rear lot line. On irregular-shaped lots, any yard adjacent to a lot line to which the yard definitions of this section do not clearly apply shall be considered a side yard.

Yard, street side, means a side yard adjacent to a street.

Zoning administrator means the officer appointed by the town council to administer and enforce the provisions of this chapter.

(Code 1997, § 66-2; Ord. of 11-23-1993, § 19.1-6(a)(4)—(7), (b)(1)—(51), (53)—(71), (73)—(81)) **Cross reference**—Definitions generally, § 1-2.

State law references—Ordinances taxing and regulating automobile graveyards and junkyards, Code of Virginia, § 15.2-903; definitions pertaining to planning, subdivision of land and zoning, Code of Virginia, § 15.2-2201; zoning administrator, Code of Virginia, § 15.2-2286(A)(4); junkyards, Code of Virginia, § 33.1-348; definitions pertaining to motor vehicles, Code of Virginia, § 46.2-100.

Sec. 66-2. Interpretation of chapter.

(a) *Provisions are minimum requirements.* In their interpretation and application, the provisions of this chapter shall be construed to be minimum requirements.

(b) *Conflicting provisions.* Where a requirement imposed by any provision of this chapter is at variance with any other provision thereof or with the requirements of any other lawfully adopted regulation, the most restrictive requirement, or that which imposes the higher standard, shall govern.

(c) *Permitted uses.* Permitted uses listed in the district regulations shall be permitted in the respective districts, provided they comply with all applicable provisions of this chapter. All other uses shall be prohibited.

(d) *Private covenants and restrictions.* The provisions of this chapter shall not be construed to affect, interfere with or abrogate any condition, covenant, limitation or restriction contained in any deed, contract or other private agreement relating to the use of any land or buildings, provided that, whenever the provisions of this chapter impose greater restrictions on the use of land or buildings than are imposed by any such condition, covenant, limitation or restriction, the provisions of this chapter shall govern.

(Code 1997, § 66-3; Ord. of 11-23-1993, § 19.1-5)

Sec. 66-3. Transition provisions.

(a) *Existing uses and buildings.* Uses and buildings lawfully existing at the effective date of the ordinance from which this chapter is derived or the date of a subsequent amendment to this chapter may be continued subject to the provisions of article VI of this chapter pertaining to nonconforming uses and features.

(b) *Existing permits.* Nothing contained in this chapter shall be construed to require any change in the plans, construction or intended use of any building or structure for which a permit was lawfully issued on behalf of the town prior to the effective date of the ordinance from which this chapter is derived or the date of a subsequent amendment to this chapter, provided that such construction is commenced prior to the expiration of such permit as specified by the provisions of this chapter or other applicable laws. In any case where a permit

expires or ceases to be valid, or where construction is abandoned for a period of 12 months or greater, further construction and use shall conform with the applicable provisions of this chapter.

(c) *Existing lots of record.* Any lot of record which was lawfully established prior to the effective date of the ordinance from which this chapter is derived or the date of a subsequent amendment to this chapter and which does not conform with the requirements for minimum lot area or lot width applicable in the district in which such lot is situated may be devoted to single-family dwelling use if such use is normally permitted in the district, provided that all other applicable provisions of this chapter and applicable health regulations shall be met.

(Code 1997, § 66-4; Ord. of 11-23-1993, § 19.1-15)

Sec. 66-4. Compliance with chapter.

(a) *Compliance required.* Subject to the provisions of section 66-3, no building, structure or land shall hereafter be used or occupied and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, converted or structurally altered except in conformity with all of the regulations specified for the district in which such building, structure or land is located and with all other applicable provisions of this chapter.

(b) *Reduction from requirements not permitted.* No lot area, yard, open space, parking space or other feature required by the provisions of this chapter shall be reduced or eliminated except in conformity with the regulations established in this chapter. Any such reduction resulting from a taking for public purpose by a governmental authority shall not be considered to be a violation of the provisions of this chapter. Any property so affected by such taking shall be subject to the applicable provisions of article VI of this chapter pertaining to nonconforming uses and features.

(c) *Required feature for one building or use not to be used for another.* No part of any lot, yard, open space, parking space or other feature required for a building or use shall be considered as a lot, yard, open space, parking space or other feature for any other building or use, except as may be specifically permitted by the provisions of this chapter.

(Code 1997, § 66-5; Ord. of 11-23-1993, § 19.1-16)

Sec. 66-5. Buildings and uses to be located on lot of record.

Every building or structure hereafter erected, constructed, reconstructed or moved and every use hereafter established shall be located on a lot of record as defined in this article. (Code 1997, § 66-6; Ord. of 11-23-1993, § 19.1-17)

Sec. 66-6. More than one main building on lot.

More than one main building containing a permitted principal use may be located on a single lot when all lot area, yard, open space, space between buildings and other applicable

requirements of the district in which such lot is situated are met, except that no main building containing a single-family dwelling or a two-family dwelling shall be located on a lot with any other main building.

(Code 1997, § 66-7; Ord. of 11-23-1993, § 19.1-18)

Sec. 66-7. Public street frontage or access required.

Every building or structure hereafter erected, constructed, reconstructed or moved and every use hereafter established shall be located on a lot having frontage on an improved public street or having access to an improved public street by way of a private street or recorded easement which is of sufficient width and character to provide access for service and emergency vehicles and which is approved by the planning commission under the provisions of article VII of this chapter pertaining to plans of development. (Code 1997, § 66-8; Ord. of 11-23-1993, § 19.1-19)

Sec. 66-8. Temporary buildings and construction trailers.

When used only in conjunction with construction work taking place on the site, temporary buildings and construction trailers shall be permitted in any district during the period when construction work is in progress as evidenced by a valid building permit. Such temporary facilities shall be removed immediately upon completion of the construction work. (Code 1997, § 66-9; Ord. of 11-23-1993, § 19.1-20)

Secs. 66-9—66-40. Reserved.

ARTICLE II. AUTHORITY; PURPOSE

Sec. 66-41. Statutory authority.

This chapter is established pursuant to the provisions of Code of Virginia, § 15.2-2280 et seq., as amended, and is intended to classify the incorporated territory of the town into zoning districts to carry out the purposes of such provisions. (Code 1997, § 66-41; Ord. of 11-23-1993, § 19.1-2)

State law reference—Purpose of zoning ordinances, Code of Virginia, § 15.2-2283.

Sec. 66-42. Purpose of chapter.

(a) This chapter is for the general purpose of promoting the health, safety and general welfare of the public and of further accomplishing the objectives of Code of Virginia, § 15.2-2200, as amended. To these ends, this chapter is designed to give reasonable consideration to each of the following purposes, where applicable:

- (1) To provide for adequate light, air, convenience of access and safety from fire, flood and other dangers;
- (2) To reduce or prevent congestion in the public streets;

- (3) To facilitate the creation of a convenient, attractive and harmonious community;
- (4) To facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, airports and other public requirements;
- (5) To protect against destruction of or encroachment upon historic areas;
- (6) To protect against one or more of the following: overcrowding of land, undue density of population in relation to the community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation, or loss of life, health or property from fire, flood, panic or other dangers;
- (7) To encourage economic development activities that provide desirable employment and enlarge the tax base;
- (8) To provide for the preservation of agricultural and forestal lands and other lands of significance for the protection of the natural environment;
- (9) To protect approach slopes and other safety areas of licensed airports, including United States government and military air facilities;
- (10) To promote affordable housing; and
- (11) To protect surface water and groundwater as defined in Code of Virginia, § 62.1-255.

(b) Pursuant to the requirements of Code of Virginia, § 15.2-2284, as amended, the regulations contained in this chapter and the districts established in this chapter have been drawn and applied with consideration for the existing use and character of property, the comprehensive plan of the town, the suitability of property for various uses, the trends of growth or change, the current and future requirements of the town as to land for various purposes as determined by population and economic studies and other studies carried out through the comprehensive plan, the transportation requirements of the town, the requirements for airports, housing, schools, parks, playgrounds, recreation areas and other public services, the conservation of natural resources, the preservation of floodplains, the preservation of agricultural and forestal land, the conservation of properties and their values, and the encouragement of the most appropriate use of land throughout the town.

(Code 1997, § 66-42; Ord. of 11-23-1993, § 19.1-3)

Secs. 66-43—66-70. Reserved.

ARTICLE III. DISTRICTS AND DISTRICT MAP*

Sec. 66-71. Establishment of districts.

In order to carry out the purposes of this chapter and to further the objectives of the comprehensive plan of the town, the following zoning districts are hereby established. (See

***State law reference**—Zoning regulations to be uniform throughout each district, Code of Virginia, § 15.2-2282.

section 66-113 for establishment of the Chesapeake Bay Preservation Area overlay district and the boundaries thereof.)

- R-1 Rural Residential District
- R-2 Single-Family Residential District
- R-3 General Residential District
- B-1 Limited Business District
- B-2 General Business District
- B-3 Central Business District
- M-1 Light Industrial District

(Code 1997, § 66-71; Ord. of 11-23-1993, § 19.1-7)

State law reference—Matters to be considered in drawing and applying zoning ordinances and districts, Code of Virginia, § 15.2-2284.

Sec. 66-72. Establishment of district map.

The locations and the boundaries of the zoning districts established by this chapter shall be shown on a map designated as "Zoning District Map of the Town of Montross, Virginia," which, together with all notations and explanatory matter shown thereon, is hereby designated at the end of this chapter.

(Code 1997, § 66-72; Ord. of 11-23-1993, § 19.1-8)

State law reference—Preparation and adoption of zoning map, Code of Virginia, § 15.2-2285.

Sec. 66-73. Maintenance of district map.

The zoning district map shall be dated, endorsed with the signature of the town clerk and maintained for public view in the office of the town clerk. The zoning district map shall not be removed from the office of the town clerk, except by court order or for such official purposes as may be deemed necessary by the town clerk.

(Code 1997, § 66-73; Ord. of 11-23-1993, § 19.1-9)

Sec. 66-74. Changes on district map.

It shall be unlawful for any person to make changes on the zoning district map except by authorization of the town clerk in accordance with the provisions of this article. (Code 1997, § 66-74; Ord. of 11-23-1993, § 19.1-10)

Sec. 66-75. Copies of district map.

The town clerk shall cause copies of the zoning district map to be made in such numbers and in such form as deemed appropriate by the town council. In the case of any discrepancies between the official zoning district map endorsed by the town clerk and any copies thereof, the official zoning district map shall be the final authority as to the current zoning classification of property.

(Code 1997, § 66-75; Ord. of 11-23-93, § 19.1-11)

Sec. 66-76. Interpretation of district boundaries.

Whenever uncertainty exists with respect to the boundaries of any of the districts as shown on the zoning district map, the following rules shall apply:

- (1) Where a discrepancy exists between a district boundary shown on the zoning district map and that which is described in the text of the ordinance establishing such boundary, the text of the ordinance shall govern.
- (2) Where district boundaries are shown with specific dimensions, such dimensions shall govern.
- (3) Where district boundaries appear to follow street, alley, property or corporation lines, or appear to follow the centerlines of streets, alleys or watercourses, such boundaries shall be construed as following such lines. The location of any street, alley, property line, corporation line or watercourse used as a district boundary shall be the location in existence at the time of adoption of the ordinance establishing the boundary.
- (4) Where district boundaries appear parallel to, perpendicular to or as extensions of centerlines, property lines or other features, they shall be so construed.
- (5) Where district boundaries are not described in any ordinance and do not appear to follow any centerlines, street lines, property lines or other features, the location of such district boundaries shall be determined by measurement on the zoning district map in accordance with the scale shown thereon.
- (6) In any case where none of the rules set out in subsections (1) through (5) of this section establish the location of a district boundary, or where subsequent dispute or uncertainty exists, the location of such district boundary shall be determined by the board of zoning appeals in accordance with the provisions of article IX of this chapter.

(Code 1997, § 66-76; Ord. of 11-23-1993, § 19.1-12)

Sec. 66-77. Amendment of district map.

Whenever an amendment is made to the zoning district map by ordinance adopted by the town council, the town clerk shall see that the amendment is properly recorded on the map, together with such notation or reference as is necessary to identify the action by which the amendment was made and the date thereof. Each amendment shall be recorded on the zoning district map as soon as practicable after the effective date of the amendment. The failure to record any amendment on the zoning district map, or any error in recording or depicting an amendment thereon, shall not affect the validity of the ordinance providing for the amendment.

(Code 1997, § 66-77; Ord. of 11-23-1993, § 19.1-13)

Sec. 66-78. Unclassified areas and additions to jurisdiction.

Areas unclassified by the zoning district map and areas newly added to the jurisdiction of the town by annexation or other means shall be construed as being within the R-1 rural residential district until otherwise designated by action of the town council in accordance with the provisions of article VIII of this chapter.

(Code 1997, § 66-78; Ord. of 11-23-1993, § 19.1-14)

State law reference—Temporary application of zoning ordinance to property annexed, Code of Virginia, § 15.2-2286(A)(2).

Secs. 66-79—66-105. Reserved.**ARTICLE IV. DISTRICT REGULATIONS*****Sec. 66-106. R-1 rural residential district.**

(a) *Intent.* Pursuant to the general purposes of this chapter, the intent of the R-1 rural residential district is to reflect the predominantly rural character of the town and accomplish comprehensive plan objectives to retain such character and to protect farmland from development pressures by encouraging agricultural, forestry, open space, recreational and conservation activities as the primary uses in the district. The R-1 district is also intended to provide opportunities for residential uses on large lots within a rural environment, together with support uses which typically require large site areas and are subject to specific review and approval to ensure compatibility. The district is intended to be applied primarily to existing farmland and undeveloped areas where future extensions of public utilities are not likely.

(b) *Permitted uses and structures.* The following uses and structures shall be permitted in the R-1 rural residential district:

- (1) Agricultural uses, including horticulture, general farming, truck gardens, cultivation of field crops, orchards, groves and nurseries for growing trees and other plants, and keeping and raising of animals, birds and poultry, including incidental processing, storing and selling of products raised or produced on the premises; provided that no pen, building or structure for the keeping of horses or other livestock shall be located within 100 feet of any side or rear lot line; or the application of biosolids or animal wastes, provided that a special use permit shall be required as set forth in article VII of this chapter.
- (2) Forestry and tree farming.
- (3) Conservation areas and wildlife preserves.
- (4) Single-family dwellings.

***State law reference**—Zoning regulations to be uniform throughout each district, Code of Virginia, § 15.2-2282.

- (5) Home occupations as defined in article I of this chapter, provided that a special use permit shall be required as set forth in article VII of this chapter.
- (6) Lodging units within single-family dwellings when such lodging units are occupied by a total of not more than two persons.
- (7) Churches and other places of worship, provided that a plan of development approved by the planning commission shall be required as set forth in article VII of this chapter.
- (8) Public schools and private schools having substantially the same curriculum as public schools, provided that a special use permit shall be required as set forth in article VII of this chapter.
- (9) Parks, recreational facilities, libraries, museums and community centers owned or operated by a governmental agency or a nonprofit organization, provided that a special use permit shall be required as set forth in article VII of this chapter.
- (10) Golf courses and country clubs, public or private, including accessory facilities for the sale and serving of food and beverages and the sale of golfing equipment and supplies, provided that a special use permit shall be required as set forth in article VII of this chapter.
- (11) Nursing homes, provided that a special use permit shall be required as set forth in article VII of this chapter.
- (12) Bed and breakfast facilities as defined in article I of this chapter, provided that a special use permit shall be required as set forth in article VII of this chapter.
- (13) Cemeteries, provided that a special use permit shall be required as set forth in article VII of this chapter.
- (14) Stables operated for private or commercial purposes, provided that no pen, building or structure for the keeping of horses shall be located within 100 feet of any side or rear lot line, and provided further that a special use permit shall be required as set forth in article VII of this chapter for any stable operated for commercial purposes.
- (15) Hunting or fishing clubs or lodges operated for nonprofit purposes and limited to use by members and their guests, provided that a special use permit shall be required as set forth in article VII of this chapter.
- (16) Fire stations and rescue squad facilities, provided that a special use permit shall be required as set forth in article VII of this chapter.
- (17) Rights-of-way, easements and appurtenances necessary for the provision and maintenance of public utilities and transportation, but not including wastewater treatment plants or generating plants.
- (18) Signs as permitted by the provisions of article V of this chapter.
- (19) Accessory uses and structures.

(c) *Lot area and width.* The following lot area and lot width requirements shall be applicable in the R-1 rural residential district:

- (1) *Single-family dwellings.* Single-family dwellings shall be located on lots of not less than two acres in area and not less than 200 feet in width, provided that a larger lot area may be required by the health official when deemed necessary for the provision of on-site sewage disposal or water supply systems.
- (2) *Other uses.* There shall be no minimum required lot area or lot width for uses other than single-family dwellings; provided that sufficient lot area and width shall be available to enable compliance with all other applicable requirements of this chapter, including requirements of the health official for the provision of on-site sewage disposal or water supply systems, and such requirements as may be imposed in conjunction with a special use permit or plan of development.

(d) *Yards.* The following yards shall be required in the R-1 rural residential district. (See article V of this chapter for supplementary regulations pertaining to yards and parking in yards.)

- (1) *Front yard.* The front yard shall be not less than 50 feet.
- (2) *Side yards.* The side yards shall be not less than 40 feet.
- (3) *Rear yard.* The rear yard shall be not less than 40 feet.

(e) *Usable open space.* Usable open space in the amount of not less than two square feet for each one square foot of floor area contained in all buildings shall be provided on each lot devoted to nursing home use. For the purposes of this requirement, usable open space and floor area shall be as defined in article I of this chapter.

(f) *Height limit.* No building or structure shall exceed a height of 35 feet. (See article V of this chapter for supplementary height regulations.)

(Code 1997, § 66-106; Ord. of 11-23-1993, § 19.1-22; Ord. of 3-28-1995)

Sec. 66-107. R-2 single-family residential district.

(a) *Intent.* Pursuant to the general purposes of this chapter, the intent of the R-2 single-family residential district is to provide appropriate areas for moderate density single-family residential development where public sewer and water systems may or may not be available. The R-2 single-family residential district is designed to preserve the essential character of existing residential areas, to encourage new residential development in accordance with modern subdivision standards, to protect single-family residential areas from encroachment by potentially incompatible commercial land uses and higher density development, and to maintain a moderate density of development to avoid an undue burden on utilities and other public services. The R-2 district is also intended to accommodate specific nonresidential uses which are necessary to provide for the recreational, educational, cultural and public service needs of a residential community.

(b) *Permitted uses and structures.* The following uses and structures shall be permitted in the R-2 single-family residential district:

- (1) Single-family dwellings.
- (2) Churches and other places of worship, provided that a plan of development approved by the planning commission shall be required as set forth in article VII of this chapter.
- (3) Public schools and private schools having substantially the same curriculum as public schools, provided that a special use permit shall be required as set forth in article VII of this chapter.
- (4) Parks, recreational facilities, libraries, museums and community centers owned or operated by a governmental agency or a nonprofit organization, provided that a special use permit shall be required as set forth in article VII of this chapter.
- (5) Rights-of-way, easements and appurtenances necessary for the provision and maintenance of public utilities and transportation, but not including wastewater treatment plants or generating plants.
- (6) Propagation and cultivation of crops, flowers, trees and shrubs which are not offered for sale on the premises.
- (7) Home occupations as defined in article I of this chapter (see also section 66-106(b)(5)).
- (8) Lodging units within single-family dwellings when such lodging units are occupied by a total of not more than two persons.
- (9) Signs as permitted by the provisions of article V of this chapter.
- (10) Accessory uses and structures.

(c) *Lot area and width.* The following lot area and lot width requirements shall be applicable in the R-2 single-family residential district:

- (1) *Single-family dwellings served by both public sewer and public water.* Lots shall be not less than 12,000 square feet in area and not less than 80 feet in width.
- (2) *Single-family dwellings served by either public sewer or public water.* Lots shall be not less than 15,000 square feet in area and not less than 90 feet in width, or of such larger area as may be required by the health official.
- (3) *Single-family dwellings served by neither public sewer nor public water.* Lots shall be not less than 25,000 square feet in area and not less than 100 feet in width, or of such larger area as may be required by the health official.
- (4) *Other uses.* There shall be no minimum required lot area or lot width for uses other than single-family dwellings; provided that sufficient lot area and width shall be available to enable compliance with all other applicable requirements of this chapter, including requirements of the health official for the provision of on-site sewage disposal or water supply systems, and such requirements as may be imposed in conjunction with a special use permit or plan of development.

(d) *Yards.* The following yards shall be required in the R-2 single-family residential district. (See article V of this chapter for supplementary regulations pertaining to yards and parking in yards.)

- (1) *Front yard.* The front yard shall be not less than 25 feet.
- (2) *Side yards.* The side yards shall be not less than ten feet.
- (3) *Rear yard.* The rear yard shall be not less than 25 feet.

(e) *Height limit.* No building or structure in the R-2 single-family residential district shall exceed a height of 35 feet. (See article V of this chapter for supplementary height regulations.) (Code 1997, § 66-107; Ord. of 11-23-1993, § 19.1-23)

Sec. 66-108. R-3 general residential district.

(a) *Intent.* Pursuant to the general purposes of this chapter, the intent of the R-3 general residential district is to provide appropriate areas for relatively high density residential development with a variety of housing types within a suitable residential environment. The R-3 general residential district is intended to be applied primarily where public sewer and water facilities and other necessary public services are available. The R-3 general residential district is designed to accommodate a mixture of housing types in a compatible manner, together with specific nonresidential uses which are necessary to provide for the recreational, educational, cultural and public service needs of a residential community. The R-3 general residential district is the intent of the district to exclude land uses of a commercial nature which are potentially incompatible with residential uses. The R-3 general residential district is intended to promote a broad range of housing opportunities and to encourage compact residential areas in order to minimize the costs of providing public services.

(b) *Permitted uses and structures.* The following uses and structures shall be permitted in the R-3 general residential district:

- (1) Single-family dwellings.
- (2) Single-family attached dwellings, provided that a plan of development approved by the planning commission shall be required as set forth in article VII of this chapter.
- (3) Two-family dwellings.
- (4) Multifamily dwellings, provided that a plan of development approved by the planning commission shall be required as set forth in article VII of this chapter.
- (5) Lodginghouses, provided that a plan of development approved by the planning commission shall be required as set forth in article VII of this chapter.
- (6) Nursing homes, provided that a special use permit shall be required as set forth in article VII of this chapter.
- (7) Churches and other places of worship, provided that a plan of development approved by the planning commission shall be required as set forth in article VII of this chapter.

- (8) Public schools and private schools having substantially the same curriculum as public schools, provided that a special use permit shall be required as set forth in article VII of this chapter.
- (9) Parks, recreational facilities, libraries, museums and community centers owned or operated by a governmental agency or a nonprofit organization, provided that a special use permit shall be required as set forth in article VII of this chapter.
- (10) Rights-of-way, easements and appurtenances necessary for the provision and maintenance of public utilities and transportation, but not including wastewater treatment plants or generating plants.
- (11) Propagation and cultivation of crops, flowers, trees and shrubs which are not offered for sale on the premises.
- (12) Home occupations as defined in article I of this chapter (see also section 66-106(b)(5)).
- (13) Lodging units within single-family dwellings when such lodging units are occupied by a total of not more than two persons.
- (14) Bed and breakfast facilities as defined in article I of this chapter, provided that a special use permit shall be required as set forth in article VII of this chapter.
- (15) Signs as permitted by the provisions of article V of this chapter.
- (16) Accessory uses and structures.

(c) *Public sewer and water requirements.* All permitted uses in the R-3 general residential district shall be served by public sewer and water systems, except single-family dwellings located on lots meeting the requirements of the health official and other permitted uses for which no sewage disposal or water supply is required by applicable health or building code requirements. Individual connections for sewer and water shall be provided for each single-family attached dwelling unit.

(d) *Lot area and width.* The following lot area and lot width requirements shall be applicable in the R-3 general residential district:

- (1) *Single-family dwellings.* Single-family dwellings served by public sewer and public water shall be located on lots of not less than 6,000 square feet in area and 50 feet in width. Single-family dwellings not served by public sewer and public water shall be located on lots of such size as may be required by the health official, but in no case less than 7,500 square feet in area or less than 50 feet in width.
- (2) *Single-family attached dwellings.* Individual lots shall be not less than 1,600 square feet in area, provided that the total area of a development site as defined in article I of this chapter shall be not less than 5,000 square feet for each dwelling unit within the development site. Individual lots shall be not less than 16 feet in width, provided that the end lots of each row of attached units shall be not less than 26 feet in width.
- (3) *Two-family dwellings and lodginghouses.* Lots shall be not less than 10,000 square feet in area and 50 feet in width.

- (4) *Multifamily dwellings.* Lots shall be not less than 5,000 square feet in area for each dwelling unit, and shall be not less than 100 feet in width.
 - (5) *Nursing homes.* There shall be no minimum required lot area, provided that sufficient area shall be available to enable compliance with all other applicable requirements of this chapter and such requirements as may be imposed in conjunction with a special use permit. Lots shall be not less than 100 feet in width.
 - (6) *Other uses.* There shall be no minimum required lot area or lot width for other uses, provided that sufficient lot area and width shall be available to enable compliance with all other applicable requirements of this chapter and such requirements as may be imposed in conjunction with a special use permit or plan of development.
- (e) *Yards.* The following yards shall be required in the R-3 general residential district. (See article V of this chapter for supplementary regulations pertaining to yards and parking in yards.)
- (1) *Front yard.* The front yard shall be not less than 25 feet, provided that single-family attached dwellings fronting on private streets, common parking areas or common open space shall have front yards of not less than 15 feet.
 - (2) *Side yards.*
 - a. *Single-family dwellings.* The side yards for single-family dwellings shall be not less than five feet.
 - b. *Single-family attached dwellings.* The side yards for single-family attached dwellings shall be not less than ten feet at each end of a row of units.
 - c. *Other uses.* The side yards for other uses shall be not less than ten feet.
 - (3) *Rear yard.* The rear yard shall be not less than 25 feet.
 - (4) *Yards between main buildings.* When two or more buildings devoted to permitted principal uses are situated on the same lot, yards of not less than 50 feet shall be provided between such buildings; except that, where neither of the opposing walls of two buildings contains windows, the yard between the buildings shall be not less than 20 feet.
- (f) *Usable open space.* Usable open space in the amount of not less than two square feet for each one square foot of floor area contained in all buildings shall be provided in the R-3 general residential district on each lot devoted to multifamily dwelling, lodginghouse or nursing home use. For the purposes of this requirement, usable open space and floor area shall be as defined in article I of this chapter.
- (g) *Additional requirements for attached dwellings.* In addition to the requirements set forth elsewhere in this section, the following requirements shall be applicable to single-family attached dwelling developments in the R-3 general residential district:
- (1) *Areas to be held in common.* If common areas are provided within a development site for purposes of roadways, parking, access, open space, recreation or other purposes,

such common areas shall be maintained by and be the responsibility of the developer or owner of the development until such time as they are conveyed to a homeowners' association consisting of the owners of individual units within the development and established for purposes of ownership and maintenance of such common areas. Appropriate covenants and deed restrictions approved as to form and substance by the town attorney shall be recorded to provide for the perpetuation and maintenance of all areas and facilities within a development site to be held in common ownership by property owners within such site. Such covenants and restrictions shall provide, among other things, that the costs of maintaining common areas and facilities shall be levied on a pro rata basis upon each individual lot in the development, and in the event of nonpayment shall constitute a lien on the lot.

- (2) *Maximum lot coverage.* Not more than 40 percent of the area of any individual lot shall be covered by principal and accessory buildings.
 - (3) *Maximum number of units in a row.* Not more than eight single-family attached dwellings shall be attached in a series or continuous row.
 - (4) *Variation in front yards or facades.* Variations in front yards or in the architectural treatment of the fronts of dwelling units shall be provided within each continuous row of attached units so that no more than two contiguous units are provided with the same front yard and the same architectural treatment.
 - (5) *Common access.* In addition to front, side and rear yards required on individual lots, easements or areas in common or public ownership shall be provided at such locations and of such width as necessary to enable access by residents and service and emergency personnel to all lots within the development site.
 - (6) *Recreation area.* Each development site containing more than eight dwelling units shall be provided with a common area of not less than ten percent of the area of the development site. Such area shall be accessible to all units and improved for active or passive recreational use by residents of the development.
- (h) *Height limit.* No building or structure in the R-3 general residential district shall exceed a height of 35 feet. (See article V of this chapter for supplementary height regulations.) (Code 1997, § 66-108; Ord. of 11-23-1993, § 19.1-24)

Sec. 66-109. B-1 limited business district.

(a) *Intent.* Pursuant to the general purposes of this chapter, the intent of the B-1 limited business district is to accommodate and encourage a limited range of low intensity retail, personal service and office uses which are compatible with adjacent and nearby rural areas and residential uses, and which provide for the convenience and day-to-day needs of residents of nearby neighborhoods. The B-1 limited business district is also intended to encourage small concentrations of business uses, as opposed to strip commercial development, and to provide a transition between residential areas and heavier business uses. The B-1 limited business

district is intended to be applied to relatively small geographical areas where convenience type business uses exist and in areas of mixed development character with direct major street access where additional limited business development may ultimately be appropriate.

(b) *Permitted uses and structures.* The following uses and structures shall be permitted in the B-1 limited business district:

- (1) Auto service stations, auto service centers and self-service gasoline stations.
- (2) Bakeries where products are sold principally at retail on the premises.
- (3) Banks, savings and loan offices and similar financial service offices.
- (4) Child care centers licensed by the state, provided that outdoor play areas shall not be located within required front or side yards and shall be enclosed with continuous fencing not less than four feet in height.
- (5) Churches and other places of worship.
- (6) Dry cleaning and laundering establishments and pickup stations.
- (7) Dwelling units contained within the same building as other uses permitted in this district, provided that such dwelling units shall be located above the ground floor or to the rear of other permitted uses, and the total floor area of that portion of a building devoted to dwelling use shall not exceed the amount of floor area devoted to other permitted uses.
- (8) Fire stations and rescue squad facilities.
- (9) Funeral homes.
- (10) Grocery stores and specialty food and beverage stores.
- (11) Laundromats.
- (12) Libraries, museums, schools, adult education and child development centers, community centers, parks and recreational facilities owned or operated by a governmental agency or a nonprofit organization, provided that a plan of development approved by the planning commission shall be required as set forth in article VII of this chapter.
- (13) Nursing homes, provided that a plan of development approved by the planning commission shall be required as set forth in article VII of this chapter.
- (14) Office supply, business service, custom printing and photocopy establishments.
- (15) Offices, including medical and dental offices and clinics.
- (16) Personal service businesses, including barbershops, beauty salons, health spas, fitness centers, dance studios, photography studios, shoe repair shops, tailor and dressmaking shops, watch and jewelry repair shops, travel agencies and similar uses.
- (17) Post offices and package mailing services.
- (18) Restaurants and similar food service or catering establishments, but not including establishments providing live entertainment on the premises or establishments where

food or beverages are intended to be consumed in vehicles on the premises. Where food or beverages are available by drive-up or walk-up window service, related facilities, including menu boards, speaker stands, vehicle waiting areas and window service areas, shall not be located within 100 feet of any property located within a residential district.

- (19) Retail stores and shops as defined in article I of this chapter.
- (20) Rights-of-way, easements and appurtenances necessary for the provision and maintenance of public utilities and transportation, but not including wastewater treatment plants or generating plants.
- (21) Shopping centers containing uses permitted in this district, provided that a special use permit shall be required as set forth in article VII of this chapter.
- (22) Service businesses, including establishments which rent, service or repair radios, televisions, video equipment and movies, home or business electronic equipment, home appliances, furniture, yard and garden equipment, tools, bicycles, locks, office machines, and similar household or business items.
- (23) Signs as permitted by the provisions of article V of this chapter.
- (24) Tourist homes.
- (25) Accessory uses and structures, provided that outdoor accessory uses such as displays and temporary sales areas shall not be located within required yards and shall not occupy any required parking space.
- (26) Rented storage facilities, enclosed by a building, including self storage, mini-storage and any other rented storage space intended as a primary business.

(c) *Lot area and width.* There shall be no minimum lot area or lot width requirements in the B-1 limited business district, except that uses which are not served by public sewer and water systems shall be provided with such minimum lot area as deemed necessary by the health official.

(d) *Yards.* The following yards shall be required in the B-1 limited business district. (See article V of this chapter for supplementary regulations pertaining to yards and parking in yards.)

- (1) *Front yard.* The front yard shall be not less than 25 feet.
- (2) *Side yards.* No side yards shall be required, provided that where a side lot line abuts property located in any residential district there shall be a side yard of not less than 25 feet, and provided further that there shall be a side yard of not less than five feet adjacent to any alley.
- (3) *Rear yard.* The rear yard shall be not less than 25 feet.

(e) *Screening.* In the B-1 limited business district, where a side or rear lot line abuts property located in any residential district, there shall be a continuous opaque fence, wall or evergreen vegetative screen of not less than six feet in height provided along such lot line, but not within ten feet of any street right-of-way line.

(f) *Height limit.* No building or structure in the B-1 limited business district shall exceed a height of 25 feet. (See article V of this chapter for supplementary height regulations.)
(Code 1997, § 66-109; Ord. of 11-23-1993, § 19.1-25; Ord. of 4-25-1995)

Sec. 66-110. B-2 general business district.

(a) *Intent.* Pursuant to the general purposes of this chapter, the intent of the B-2 general business district is to accommodate a wide range of retail, wholesale, service and office uses which cater to the traveling public and which serve the town as a whole and the region surrounding the town. The B-2 general business district is intended to be applied along principal highways and to areas having direct access thereto, in order to provide safe and efficient access for commercial vehicles and relatively large volumes of private vehicles while avoiding the routing of such traffic onto minor streets or through residential areas. The regulations within the B-2 general business district are designed to afford flexibility in permitted uses and in the utilization of individual sites in order to promote business opportunities, economic development and the provision of services for the town and the surrounding area. The B-2 general business district also contains provisions intended to encourage harmonious development, to minimize potential adverse impacts of general business development and to ease the transition between business areas and adjacent rural and residential areas.

(b) *Permitted uses and structures.* The following uses and structures shall be permitted in the B-2 general business district:

- (1) Any use or structure permitted in the B-1 limited business district.
- (2) Automatic or self-service auto wash facilities.
- (3) Automobile, truck, trailer, recreational vehicle, equipment, machinery, farm implement and manufactured home sales, rental, service and repair businesses, but not including junkyards or automobile graveyards; provided that no repair of motor vehicles shall be conducted outside of a completely enclosed building and in view from any adjacent property or public street.
- (4) Building materials and mechanical, electrical, plumbing and heating supplies sales.
- (5) Contractors' offices, shops and display rooms.
- (6) Entertainment, amusement and recreational facilities located within completely enclosed buildings, including bowling alleys, billiard parlors, amusement centers, video arcades, theaters, lodge and club meeting places, dancehalls, auditoriums and assembly halls, adult entertainment establishments, adult bookstores, adult motion picture theaters, massage parlors and other sexually-oriented businesses, provided that a special use permit shall be required as set forth in article VII of this chapter.

- (7) Garden centers and plant nurseries.
 - (8) Hospitals, provided that a special use permit shall be required as set forth in article VII of this chapter.
 - (9) Hotels and motels.
 - (10) Machine shops and sheetmetal fabricating shops.
 - (11) Miniature golf courses, golf driving ranges and other outdoor commercial recreational facilities, provided that a special use permit shall be required as set forth in article VII of this chapter.
 - (12) Parking areas as a principal use of property.
 - (13) Recreational vehicle and travel trailer parks and campgrounds, provided that a special use permit shall be required as set forth in article VII of this chapter.
 - (14) Restaurants and other food service and catering establishments; provided that, where food or beverages are available by drive-up or walk-up window service, related facilities, including menu boards, speaker stands, vehicle waiting areas and window service areas, shall not be located within 100 feet of any property located within a residential district.
 - (15) Signs as permitted by the provisions of article V of this chapter.
 - (16) Veterinary clinics and animal hospitals, but not including outdoor kennels or runs.
 - (17) Vocational, business and professional schools.
 - (18) Wholesale and distribution businesses, including warehouse and storage facilities accessory thereto.
 - (19) Accessory uses and structures.
- (c) *Lot area and width.* There shall be no minimum lot area or lot width requirements in the B-2 general business district, except that uses which are not served by public sewer and water systems shall be provided with such minimum lot area as deemed necessary by the health official.
- (d) *Yards.* The following yards shall be required in the B-2 general business district. (See article V of this chapter for supplementary regulations pertaining to yards and parking in yards.)
- (1) *Front yard.* The front yard shall be not less than 25 feet.
 - (2) *Side yards.* No side yards shall be required, provided that where a side lot line abuts property located in any residential district there shall be a side yard of not less than 25 feet, and provided further that there shall be a side yard of not less than five feet adjacent to any alley.
 - (3) *Rear yard.* The rear yard shall be not less than 25 feet.

(e) *Use of certain yard areas.* In the B-2 general business district, required side yards abutting property in any residential district shall not be devoted to any of the following uses or activities, nor shall any of the following take place within ten feet of any street right-of-way line:

- (1) Outdoor storage of building materials, supplies, equipment, machinery, or wrecked or partially dismantled vehicles.
- (2) Outdoor display or sales areas for vehicles or other products.
- (3) Loading or unloading areas for trucks and other vehicles.

(f) *Screening.* The following screening requirements shall apply in the B-2 general business district:

- (1) *Lot lines abutting residential districts.* Where a side or rear lot line abuts property located in any residential district, there shall be a continuous opaque fence, wall or evergreen vegetative screen of not less than six feet in height provided along such lot line, but not within ten feet of any street right-of-way line.
- (2) *Outdoor storage areas.* All areas located outside of completely enclosed buildings and devoted to the storage of building materials, supplies, equipment, machinery, or wrecked or partially dismantled vehicles shall be situated on the site so as not to be visible from public streets and adjacent properties or shall be screened from view from public streets and adjacent properties by continuous opaque fences, walls or evergreen vegetative material of not less than six feet in height.

(g) *Height limit.* No building or structure shall exceed a height of 35 feet in the B-2 general business district. (See article V of this chapter for supplementary height regulations.)
(Code 1997, § 66-110; Ord. of 11-23-1993, § 19.1-26; Ord. of 5-27-2008(1))

Sec. 66-111. B-3 central business district.

(a) *Intent.* Pursuant to the general purposes of this chapter, the intent of the B-3 central business district is to provide for the day-to-day and specialty shopping and personal service needs of the community within a compact and well-defined area having a pedestrian orientation. The permitted uses and regulations of the B-3 central business district are intended to promote an attractive pedestrian shopping environment with convenient parking and continuity of retail, personal service and office establishments at street level. The B-3 central business district is intended to avoid domination by vehicular-oriented uses and heavy business uses which are more appropriately encouraged in the general business district. The central business district is also intended to accommodate municipal and county governmental offices and related functions, as well as residential uses in upper floors of commercial buildings.

(b) *Permitted uses and structures.* The following uses and structures shall be permitted in the B-3 central business district:

- (1) Auto service stations, auto service centers and self-service gasoline stations.

- (2) Bakeries where products are sold principally at retail on the premises.
- (3) Banks, savings and loan offices and similar financial service offices.
- (4) Churches and other places of worship.
- (5) Dry cleaning and laundering establishments and pickup stations.
- (6) Dwelling units contained within the same building as other uses permitted in this district, provided that such dwelling units shall be located above the ground floor or to the rear of other permitted uses, and the total floor area of that portion of a building devoted to dwelling use shall not exceed two times the amount of floor area devoted to other permitted uses.
- (7) Entertainment, amusement and recreational facilities located within completely enclosed buildings, including bowling alleys, billiard parlors, amusement centers, video arcades, theaters, and lodge and club meeting places, adult entertainment establishments, adult bookstores, adult motion picture theaters, massage parlors and other sexually-oriented businesses, provided that a special use permit shall be required as set forth in article VII of this chapter.
- (8) Fire stations and rescue squad facilities.
- (9) Grocery stores and specialty food and beverage stores.
- (10) Hotels.
- (11) Laundromats.
- (12) Libraries, museums, schools, adult education and child development centers, community centers, parks and recreational facilities owned or operated by a governmental agency or a nonprofit organization, provided that a plan of development approved by the planning commission shall be required as set forth in article VII of this chapter.
- (13) Newspaper publishing and printing facilities.
- (14) Office supply, business service, custom printing and photocopy establishments.
- (15) Offices, including medical and dental offices and clinics.
- (16) Parking areas, private or municipal, as a principal use of property.
- (17) Personal service businesses, including barbershops, beauty salons, health spas, fitness centers, dance studios, photography studios, shoe repair shops, tailor and dressmaking shops, watch and jewelry repair shops, travel agencies and similar uses.
- (18) Post offices and package mailing services.
- (19) Restaurants and similar food service and catering establishments, but not including establishments where food or beverages are intended to be consumed in vehicles on the premises or establishments where food or beverages are available by drive-up window service.
- (20) Retail stores and shops as defined in article I of this chapter.

- (21) Rights-of-way, easements and appurtenances necessary for the provision and maintenance of public utilities and transportation, but not including wastewater treatment plants or generating plants.
- (22) Service businesses, including establishments which rent, service or repair radios, televisions, video equipment and movies, home or business electronic equipment, home appliances, furniture, yard and garden equipment, tools, bicycles, locks, office machines, and similar household or business items.
- (23) Shopping centers containing uses permitted in this district, provided that a special use permit shall be required as set forth in article VII of this chapter.
- (24) Signs as permitted by the provisions of article V of this chapter.
- (25) Tourist homes.
- (26) Uses and structures required for the performance of municipal and county governmental services, including offices, courthouse and meeting facilities, jail facilities, vehicle and equipment storage yards, communications towers and water towers; provided that a plan of development approved by the planning commission shall be required as set forth in article VII of this chapter.
- (27) Vocational, business and professional schools.
- (28) Accessory uses and structures.

(c) *Lot area and width.* There shall be no minimum lot area or lot width requirements in the B-3 central business district, except that uses which are not served by public sewer and water systems shall be provided with such minimum lot area as deemed necessary by the health official.

(d) *Yards.* The following yards shall be required in the B-3 central business district. (See article V of this chapter for supplementary regulations pertaining to yards and parking in yards.)

- (1) *Front yard.* No front yard shall be required.
- (2) *Side yards.* No side yards shall be required, provided that where a side lot line abuts property located in any residential district there shall be a side yard of not less than 25 feet, and provided further that there shall be a side yard of not less than five feet adjacent to any alley.
- (3) *Rear yard.* The rear yard shall be not less than 15 feet.

(e) *Screening.* In the B-3 central business district, where a side or rear lot line abuts property located in any residential district, there shall be a continuous opaque fence, wall or evergreen vegetative screen of not less than six feet in height provided along such lot line, but not within ten feet of any street right-of-way line.

(f) *Height limit.* No building or structure in the B-3 central business district shall exceed a height of 50 feet. (See article V of this chapter for supplementary height regulations.)

(Code 1997, § 66-111; Ord. of 11-23-1993, § 19.1-27; Ord. of 5-27-2008(1))

Sec. 66-112. M-1 light industrial district.

(a) *Intent.* Pursuant to the general purposes of this chapter, the intent of the M-1 light industrial district is to provide appropriate locations for light industrial and manufacturing uses, as well as related service and support uses, which involve minimal hazards and do not create significant amounts of smoke, noise, odor, dust or other potential nuisance. The M-1 light industrial district is also intended to encourage uses which afford employment opportunities and economic development potential. M-1 districts are intended to be located along or near primary highways to facilitate access and to avoid industrial traffic impacts on minor roads. The permitted uses and yard, screening and separation requirements in the M-1 light industrial district are intended to enhance compatibility with neighboring industrial and other uses and to avoid negative impacts on existing and future residential and business development that may be situated nearby.

(b) *Permitted uses and structures.* The following uses and structures shall be permitted in the M-1 light industrial district:

- (1) Any use or structure permitted in the B-2 general business district as set forth in section 66-110.
- (2) Automobile, truck, trailer, recreational vehicle, equipment, machinery, farm implement and manufactured home sales, rental, service and repair businesses, but not including junkyards or automobile graveyards; provided that activities conducted outside of completely enclosed buildings shall be subject to the provisions of subsections (e) and (f) of this section.
- (3) Blacksmith shops.
- (4) Boatbuilding.
- (5) Bottling plants and related facilities.
- (6) Cabinet, upholstery, furniture and woodworking shops.
- (7) Circuses, carnivals and fairgrounds, provided that a special use permit shall be required as set forth in article VII of this chapter.
- (8) Contractors' equipment storage yards and rental of contractors' equipment.
- (9) Ice manufacturing.
- (10) Kennels, including outdoor kennels, operated independent of other uses or in conjunction with veterinary clinics or animal hospitals, subject to the provisions of subsections (e) and (f) of this section.
- (11) Laboratories and research and development facilities.
- (12) Manufacturing and assembling of electronic equipment and parts, electrical appliances, musical instruments, toys, novelties, medical equipment and similar products.
- (13) Manufacturing, compounding, assembling, treatment or packaging of products derived from the following materials, when such materials are refined or initially processed or

prepared elsewhere: bone, canvas, cellophane, cloth, cork, feathers, felt, fibers, fur, glass, hair, horn, leather, metals, paint, paper, plastic, rubber, shells, stone, straw, textiles, tobacco and wood.

- (14) Manufacturing, compounding, processing, packaging or treatment of bakery goods, candy, cosmetics, dairy products, drugs, food products, perfumes, pharmaceuticals, soaps, toiletries and similar products.
- (15) Manufacturing of pottery and ceramic products utilizing only clay which has been pulverized elsewhere and utilizing kilns fired only by electricity or gas.
- (16) Monument works and stone cutting.
- (17) Petroleum, fuel oil or propane storage for purposes of distribution, provided that a special use permit shall be required as set forth in article VII of this chapter.
- (18) Propagation, cultivation and sales of crops, flowers, trees and shrubs.
- (19) Riding stables, provided that all pens, runs, riding rings and buildings for the enclosure of animals shall be located not less than 100 feet from side and rear property lines.
- (20) Signs as permitted by the provisions of article V of this chapter.
- (21) Tire recapping and retreading shops.
- (22) Truck terminals.
- (23) Warehouse and storage facilities.
- (24) Wastewater treatment plants, provided that a special use permit shall be required as set forth in article VII of this chapter.
- (25) Welding shops.
- (26) Accessory uses and structures.

(c) *Lot area and width.* There shall be no minimum lot area or lot width requirements in the M-1 light industrial district, except that uses which are not served by public sewer and public water systems shall be provided with such minimum lot area as deemed necessary by the health official.

(d) *Yards.* The following yards shall be required in the M-1 light industrial district. (See article V of this chapter for supplementary regulations pertaining to yards and parking in yards.)

- (1) *Front yard.* The front yard shall be not less than 25 feet.
- (2) *Side yards.* No side yards shall be required, provided that where a side lot line abuts property located in any residential district there shall be a side yard of not less than 50 feet, and provided further that there shall be a side yard of not less than five feet adjacent to any alley.
- (3) *Rear yard.* The rear yard shall be not less than 25 feet.

(e) *Use of certain yard areas.* Required side yards abutting property in any residential district in the M-1 light industrial district shall not be devoted to any of the following uses or activities, nor shall any of the following take place within ten feet of any street right-of-way line:

- (1) Outdoor storage of building materials, supplies, equipment, machinery, or wrecked or partially dismantled vehicles.
- (2) Outdoor display or sales areas for vehicles or other products.
- (3) Loading or unloading areas for trucks and other vehicles.

(f) *Screening.* The following screening requirements shall apply in the M-1 light industrial district:

- (1) *Lot lines abutting residential districts.* Where a side or rear lot line abuts property located in any residential district, there shall be a continuous opaque fence, wall or evergreen vegetative screen of not less than six feet in height provided along such lot line, but not within ten feet of any street right-of-way line.
- (2) *Outdoor storage areas.* All areas located outside of completely enclosed buildings and devoted to the storage of building materials, supplies, equipment, machinery, or wrecked or partially dismantled vehicles shall be situated on the site so as not to be visible from public streets and adjacent properties or shall be screened from view from public streets and adjacent properties by continuous opaque fences, walls or evergreen vegetative material of not less than six feet in height.

(g) *Height limit.* No building or structure in the M-1 light industrial district shall exceed a height of 50 feet. (See article V of this chapter for supplementary height regulations.)

(Code 1997, § 66-112; Ord. of 11-23-1993, § 19.1-28)

Sec. 66-113. Chesapeake Bay Preservation Area overlay district.

(a) *Authority, purpose and intent:* Pursuant to the authority set forth in the Code of Virginia, § 15.2-2283, the purpose of the Chesapeake Bay Preservation Area overlay district is to implement the requirements of the Code of Virginia, § 10.1-2100 et seq. (the Chesapeake Bay Preservation Act) and to accomplish the purposes set forth therein. The intent of the Chesapeake Bay Preservation Area overlay district is to:

- (1) Protect existing high quality state waters;
- (2) Restore all other state waters to a condition or quality that will permit all reasonable public uses and will support the propagation and growth of all aquatic life, including game fish, which might reasonably be expected to inhabit them;
- (3) Safeguard the clean waters of the state from pollution;
- (4) Prevent any increase in pollution;
- (5) Reduce existing pollution; and

- (6) Promote water resource conservation and in order to provide for the health, safety and welfare of the present and future citizens of the town.

(b) *Findings of fact.* The Chesapeake Bay, together with its tributaries, is one of the most important and productive estuarine systems in the world, providing economic and social benefits to the citizens of the town and state. The health of the bay is vital to maintaining the economy of the town and welfare of its citizens. The Chesapeake Bay waters have been degraded significantly by many sources of pollution, including non-point source pollution from land uses and development. Existing high quality waters are worthy of protection from degradation to guard against further pollution. Certain lands that are proximate to shorelines have intrinsic water quality value due to the ecological and biological processes they perform. Other lands have severe development constraints from flooding, erosion, and soil limitation. With proper management, they offer significant ecological benefits by providing water quality maintenance and pollution control, as well as flood and shoreline erosion control. These lands together, designated by the town council as Chesapeake Bay Preservation Areas, need to be protected from destruction and damage in order to protect the quality of water in the bay and consequently the quality of life in the town and the state.

(c) *Application of district.* The Chesapeake Bay Preservation Area overlay district shall be in addition to and shall overlay all other zoning districts established by this chapter, which other districts shall be known as underlying districts. Every parcel of land lying within the Chesapeake Bay Preservation Area overlay district shall also lie within one or more of the underlying districts provided for in this chapter. Unless otherwise specifically stated in the Chesapeake Bay Preservation Area overlay district regulations, the requirements and review and approval processes set forth in this chapter shall be applicable to all development, redevelopment and use of land governed by this section.

(d) *District regulations and boundaries.* The regulations and the review and approval processes applicable within the Chesapeake Bay Preservation Area overlay district, as well as the boundaries of the district within the town, shall be as set forth in sections 3-1.4 through 3-1.15 of the ordinance known as the "Chesapeake Bay Preservation Area Overlay District of Westmoreland County" as adopted by the county board of supervisors on April 12, 2006. Except as provided in subsections (e), (f), and (g) of this section, sections 3-1.4 through 3-1.15 of such ordinance are hereby incorporated by reference and made a part of this chapter as though fully set forth in this section. For purposes of implementing the requirements of the Chesapeake Bay Preservation Area overlay district and to the extent applicable in the administration thereof, the erosion and sediment control ordinance of the county is hereby incorporated and made a part of this chapter as though fully set forth in the section.

(e) *Administration and interpretation.* The provisions of the Chesapeake Bay Preservation Area overlay district regulations shall be administered and enforced by the zoning administrator of the county as set forth in the ordinance referred to in subsection (d) of this section. For purposes of application of the Chesapeake Bay Preservation Area overlay district regulations with the boundaries of the town, certain terms and references uses in such ordinance shall have the following meaning:

- (1) *Underlying district* means an underlying zoning district established by this chapter.

- (2) *Planning commission* means the Planning Commission of the Town of Montross.
- (3) *Board of zoning appeals* means the Board of Zoning Appeals of the Town of Montross.
- (4) *References to county zoning ordinance.* References to sections 8-1 through 8-4, 10-3.4, 10-3.12 and 3-1.4 of the zoning ordinance of the county shall mean the corresponding sections of Articles VI, VII, and IX respectively, of this chapter, to the extent they are appropriate to the context.

(f) *Appeals and variances.* None of the provisions of the Chesapeake Bay Preservation Area overlay district regulations shall be deemed to abrogate the powers of the board of zoning appeals with respect to appeals from any decision of an administrative authority or variances from the terms of this chapter as authorized by the provisions of the Code of Virginia, § 15.2-2309, as amended, and in accordance with the provisions of Article IX of this chapter. Prior to filing an appeal with or making an application to the board of zoning appeals, the appellant or applicant shall first have exhausted the means of administrative relief through the planning commission as set forth in the Chesapeake Bay Preservation Area overlay district regulations. In action on any such appeal or variance application, the board of zoning appeals shall consider the water quality impact assessment and findings and rationale of the planning commission in determining harmony with the intended spirit and purpose of this chapter.

(g) *Effective date; nonconforming uses.* The effect date of the Chesapeake Bay Preservation Area overlay district as it applies within the boundaries of the town shall be the effective date of the ordinance from which this chapter is derived. The lawful use of any building or structure existing on such date or which exists at the time of any amendment to the regulations of such district, and which is not in conformity with the provisions of such district, may nonetheless be continued in accordance with the provisions of section 3-1.13 of the Chesapeake Bay Preservation Area overlay district regulations and the applicable provisions of Article VI of this chapter pertaining to nonconforming uses and structures.

(Code 1997, § 66-113; Ord. of 11-23-1993, § 19.1-29; Ord. of 12-16-2003, § 66-113; Ord. of 12-13-2004, § 66-113; Ord. of 10-27-2009)

State law references—Erosion and Sediment Control Law, Code of Virginia, § 10.1-560 et seq.; authority of town to exercise police and zoning powers to protect the quality of state water, Code of Virginia, § 10.1-2108.

Secs. 66-114—66-140. Reserved.

ARTICLE V. SUPPLEMENTARY REGULATIONS

Sec. 66-141. Applicability of article.

The regulations set forth in this article are additions or exceptions to, and qualify, supplement or modify, as the case may be, the regulations and requirements set forth in the district regulations contained in article IV of this chapter. (Code 1997, § 66-141; Ord. of 11-23-1993, § 19.1-31)

Sec. 66-142. Off-street parking requirements.

(a) *Number of spaces required.* The minimum number of off-street parking spaces required for particular uses located in any district shall be as set forth in the following schedule. The minimum number of off-street parking spaces required for a use not specifically listed in the schedule shall be as required for the most similar use listed as determined by the zoning administrator.

<i>Use</i>	<i>Number of Spaces</i>
(1) Single-family detached or two-family dwelling; dwelling located in commercial building	1 per dwelling unit
(2) Single-family attached dwelling	2 per dwelling unit
(3) Multifamily dwelling	2 per dwelling unit
(4) Multifamily dwelling when units are intended for occupancy by persons 65 years or more of age	1 per 2 dwelling units
(5) Lodginghouse; tourist home; hotel; motel; bed and breakfast; lodging unit in a single-family dwelling	1 per lodging unit
(6) Group home	1 per 2 sleeping rooms
(7) Nursing home	1 per 4 beds
(8) Hospital	1 per 3 beds, plus 2 per 3 employees
(9) Child care center	1 per 10 children, plus 2 per 3 employees
(10) Church	1 per 8 seats in main auditorium or sanctuary
(11) School, public or private	Greater of 1 per classroom or 1 per 5 seats in auditorium
(12) Vocational or business school	1 per 2 persons enrolled
(13) Library; museum; art gallery	10, plus 1 per 400 square feet of floor area
(14) Theater; auditorium; assembly hall; similar use with fixed seating	1 per 4 seats
(15) Lodge hall; dancehall; club; similar meeting place without fixed seating	1 per 100 square feet of floor area in club or meeting rooms
(16) Bowling alley	3 per lane
(17) Miniature golf course	3 per hole
(18) Office; travel agency	1 per 300 square feet of floor area
(19) Medical or dental office or clinic; veterinary hospital	4 per doctor, plus 2 per 3 employees
(20) Bank; savings and loan office	1 per 200 square feet of floor area, plus waiting space for 5 vehicles per drive-up teller station

<i>Use</i>	<i>Number of Spaces</i>
(21) Funeral home	1 per 4 seating capacity in chapel or funeral service rooms, plus 2 per 3 employees
(22) Restaurant, including fast food	1 per 100 square feet of floor area, plus 5 waiting spaces per drive-up window
(23) Grocery, food or beverage store; amusement center; billiard parlor; video game arcade	1 per 150 square feet of floor area
(24) Retail store or shop not otherwise listed; laundromat; dance studio; health spa; fitness center; home video rental store	1 per 200 square feet of floor area
(25) Retail clothing, jewelry, home accessories, hardware, office supply, electronics, yard and garden supply, or auto accessory store; photography studio; dry cleaning and laundering business; shoe repair; tailor; dressmaking; watch, jewelry, electronics, or household items repair shop; other service business not specifically listed elsewhere	1 per 400 square feet of floor area
(26) Retail furniture, appliance or building materials and supplies store; auto sales showroom	1 per 600 square feet of floor area
(27) Wholesale or distribution business; contractor's shop or display area; rented storage facilities	1 per 1,000 square feet of floor area, plus 1 per vehicle used in the business
(28) Barbershop or beauty salon	3 per hair cutting station
(29) Auto service center; service station; auto or truck repair	5, plus 2 per service or repair bay
(30) Self-service or automatic auto wash	3 per washing bay, plus off-street waiting area
(31) Shopping center	4.0 per 1,000 square feet of floor area
(32) Manufacturing, processing or fabricating; research or laboratory facility; bottling plant; warehouse or storage facility; truck terminal	2 per 3 employees, plus 1 per vehicle used in conjunction therewith

(b) *Method of determining number of spaces.* For purposes of determining the number of off-street parking spaces required for a particular use, the following rules shall apply:

- (1) Floor area shall include the gross area of the floorspace devoted to the use, including space used for incidental purposes related thereto, and shall be measured along

exterior faces of enclosing walls or partitions, or, in the case of attached buildings or abutting spaces within the same building devoted to different uses, shall be measured along the centerlines of common walls or partitions.

- (2) Number of employees shall be construed as the maximum number of persons employed on any working shift.
- (3) When computation of the required number of spaces results in a fractional number, the required number of spaces shall be the nearest whole number.
- (4) When a building or premises is devoted to more than one use, the total number of spaces required shall be the sum of the spaces required for each use.
- (5) Required off-street parking spaces may be provided within garages, carports or enclosed buildings when the provisions of this section pertaining to dimensions and accessibility are met.
- (6) On-street parking spaces may used in the computation when such parking spaces are located within 400 feet, by normal pedestrian route, of a principal entrance to the building devoted to the use they are intended to serve.
- (7) The off-street parking requirements set forth in this zoning regulation may be modified by the zoning administrator:
 - (a) When it is clear that sufficient land is not available or cannot be obtained to meet the requirements set forth; and
 - (b) When, in the opinion of the zoning administrator, there is substantial evidence that it would work a demonstrable hardship on the property owner or where modification of the requirement would appear to be in the public interest.

(c) *Nonconforming number of spaces.* Whenever the number of off-street parking spaces provided for a building or use is nonconforming, any change made in such building or use shall result in a new off-street parking requirement as determined by application of the provisions of subsection (a) of this section to the building or use after the change. When any change is made so that the number of off-street parking spaces required by subsection (a) of this section after the change is greater than the number of spaces required by application of subsection (a) of this section before the change, then not less than the number of spaces required for that increase shall be provided in addition to the number of spaces provided prior to the change. The purpose of this subsection is to preserve any nonconforming right that may exist prior to any change in a building or use, but to require such additional parking as may be necessitated by the change.

(d) *Parking space dimensions.* Required off-street parking spaces shall be not less than nine feet in width and 18 feet in length, except that spaces arranged parallel to their means of access shall be not less than eight feet in width and 22 feet in length. The width and length of parking spaces shall be measured perpendicular to one another so as to form a rectangle with dimensions as required in this section. Parking spaces required to be accessible to handicapped persons by the provisions of the Virginia Uniform Statewide Building Code shall comply with

the requirements of that code. Up to 30 inches of the required length of an off-street parking space may be provided as vehicle overhang area and need not be paved, provided that wheel stops are installed. Such overhang area shall be clear of any obstruction to vehicles utilizing the parking space and shall not encroach into any other parking space or required access aisle or onto any public right-of-way, adjacent property, pedestrian walkway or required yard area within which parking is not permitted. Such overhang area shall be considered as part of the parking space for purposes of calculating usable open space when required for any use by the provisions of this chapter.

(e) *Location of required parking spaces.* Required off-street parking spaces shall be located on the same lot or development site as the use for which they are required, provided that parking spaces required for uses other than dwelling uses, lodgingshouses, tourist homes, group homes, child care centers and motels may be located off the premises when all of the following conditions are met:

- (1) *Compliance with use regulations.* The parking area within which such parking spaces are provided shall comply with the use regulations and all other requirements of the district in which it is located.
- (2) *Distance from use to be served.* Such parking spaces shall be located within 400 feet, by normal pedestrian route, of a principal entrance to the building devoted to the use they are intended to serve.
- (3) *Shared parking spaces.* Not more than 50 percent of the parking spaces required for churches, schools, theaters, auditoriums, stadiums, lodge halls, dancehalls, clubs and restaurants may be provided by and shared with parking spaces provided for offices, banks, retail and service uses, and other commercial or industrial uses which are not open, used or operated during any of the same hours of the day or night.
- (4) *Lease agreement required.* Where the property on which such parking spaces are located is not under the same ownership and control as the property on which the use to be served is located, a lease agreement providing for such parking spaces shall be submitted with the application for the zoning permit for the use to be served. The tenure of such lease shall be for not less than one year, and the form of such lease shall be approved by the town attorney prior to approval of the zoning permit. At any time the use of the property for parking purposes is to be discontinued, the zoning administrator shall be given at least 30 days' notice thereof in writing, and, unless the parking spaces are no longer required by the provisions of this chapter, such spaces shall be provided elsewhere in compliance with this chapter.

(f) *Access to parking spaces.* All required off-street parking spaces shall be provided with access and maneuvering space meeting the following criteria:

- (1) *Driveway or access aisle.* Each required off-street parking space shall be provided with a driveway or common access aisle directly serving such space and of sufficient

dimensions to enable vehicles to maneuver into and out of such space without encroaching into another parking space or extending beyond the designated driveway or access aisle area.

- (2) *Obstruction of streets prohibited.* No area devoted to parking or access thereto shall be designed, operated or maintained so as to cause any public street, alley or sidewalk area to be obstructed by vehicles entering, leaving or maneuvering within such parking area. Maneuvering space of sufficient arrangement and dimensions shall be provided within parking areas in order to avoid such obstruction.

(g) *Improvement of parking areas.* Parking areas containing required off-street parking spaces shall be improved in accordance with the following standards:

- (1) *Paving.* Parking areas containing five or more parking spaces and all entrances thereto and exits therefrom shall be paved with dust-free, all-weather hard surface material such as asphalt, asphalt and gravel seal coat, concrete, unit pavers or similar material approved by the zoning administrator. Parking spaces shall be delineated by markings on the pavement surface. The requirements of this subsection shall not apply to parking areas serving churches and other public and semipublic uses which, in the judgment of the zoning administrator, involve intermittent, infrequent or non-daily parking use, provided that sufficient improvements are made to ensure that the parking area is usable and that proper access and drainage are provided.

- (2) *Delineation of parking areas.* Wheel stops, curbs, walls, fences, shrubbery or other means shall be provided along the edges of parking areas where necessary to prevent parked vehicles from encroaching onto adjacent properties or into public streets and alleys, required yards or public walkways within or adjacent to the site.

(h) *Parking in yards adjacent to streets.* Off-street parking spaces and access aisles serving off-street parking spaces shall be prohibited in certain yard areas adjacent to streets as set forth in the following provisions. These restrictions shall not be construed to prohibit driveways from the street when such driveways are approved by the appropriate authority:

- (1) *Residential and B-1 districts.* In R-1, R-2, R-3 and B-1 districts, no parking area or access aisle other than that which serves a single-family or two-family dwelling shall be located within any required front yard or required street side yard.
- (2) *B-2 and M-1 districts.* In B-2 and M-1 districts, no parking area or access aisle shall be located within ten feet of any street right-of-way line.

(i) *Screening and landscaping.* Screening of parking areas and landscaping of yards adjacent to parking areas shall be provided in accordance with the following standards:

- (1) *Screening from property in residential districts.* All parking areas containing five or more parking spaces and located in any district shall be screened from abutting properties located in residential districts. Screening shall consist of opaque fences, walls or evergreen vegetative materials of not less than 3 1/2 feet in height erected and maintained along the property line or the edge of the parking area.

- (2) *Landscaping of yard areas.* In any district, yard areas located between parking areas and adjacent streets, and yard areas located between required screening and adjacent property lines, shall be suitably graded and shall be improved and landscaped with grass, other plant materials or ground cover in a manner that will prevent erosion, the spread of dust and the collection of surface water or drainage thereof onto adjacent property.

(Code 1997, § 66-142; Ord. of 11-23-1993, § 19.1-32; Ord. of 4-25-1995; Ord. of 5-27-2008(2)) **State law references**—Uniform Statewide Building Code, Code of Virginia, § 36-97 et seq.; parking in spaces reserved for handicapped persons, Code of Virginia, § 46.2-1236 et seq.

Sec. 66-143. Sign regulations.

(a) *Generally.* The sign regulations contained in this section shall apply generally to signs in all districts, and no sign shall be erected, constructed, installed or attached except in conformity with all of the provisions set forth in this section for the particular sign in the district in which it is located. Definitions of the various types of signs regulated in this section, as well as the method of measuring the area of signs, shall be as set forth in article I of this chapter.

(b) *Permitted signs in residential districts.* The following signs shall be permitted in the R-1, R-2 and R-3 residential districts:

- (1) *Signs identifying nonresidential uses.* Signs not exceeding in the aggregate 16 square feet in area identifying a church, school, park, playground, library, museum or other permitted nonresidential use are permitted. Such signs shall be attached flat against a main building or may include one freestanding sign. In the case of a freestanding sign, an additional area not exceeding 16 square feet may be devoted to architectural elements which serve as a support, border or base for such sign and which are not a part of the message portion of the sign.
- a. No freestanding sign shall exceed a height of eight feet.
 - b. No freestanding sign shall be located within ten feet of any street line, other property line, alley or driveway intersecting a street.
- (2) *Signs identifying residential subdivisions.* One freestanding sign identifying a residential subdivision is permitted. Such sign shall be subject to the requirements for freestanding signs set forth in subsection (b)(1) of this section.
- (3) *Signs identifying certain dwelling uses.* Signs not exceeding in the aggregate 12 square feet in area identifying a multifamily development, single-family attached development, nursing home, group home or lodginghouse are permitted. Such signs shall be attached flat against a main building or may include one freestanding sign, provided that freestanding signs shall be subject to the requirements set forth in subsections (b)(1)a and b of this section.
- (4) *Temporary sale, rental or lease signs.* One or more temporary signs not exceeding in the aggregate six square feet in area pertaining to the sale, rental or lease of the premises

on which they are located are permitted. Such signs shall not be illuminated, shall not be located within five feet of any street line, other property line, alley or driveway intersecting a street, and shall be removed when the sale, rental or lease of the premises is consummated.

- (5) *Temporary construction signs.* One or more temporary signs not exceeding in the aggregate 32 square feet in area identifying the use to be made of a building under construction on the property on which such signs are located or identifying the contractor, subcontractors, architect, lending institution or other party involved with such construction are permitted. Such signs shall not be illuminated, shall not be located within ten feet of any street line, other property line, alley or driveway intersecting a street, and shall be removed upon completion or abandonment of the construction activity to which they pertain.

(c) *Permitted signs in B-1 district.* The following signs shall be permitted in the B-1 limited business district:

- (1) *Signs permitted in residential districts.* Any sign permitted in the R-1, R-2 and R-3 residential districts as set forth in subsection (b) of this section is permitted in the B-1 district. Signs identifying uses which are permitted in the R-1, R-2 or R-3 district shall be subject to the regulations set forth in subsection (b) of this section.
- (2) *Signs attached to buildings.* Signs attached flat against or painted on a vertical surface of a main building or accessory structure, other than a structure intended principally for sign purposes, are permitted. Such signs shall not extend beyond the extremities of the surface of the building or structure to which they are attached.
- (3) *Signs attached to roofs of buildings.* Signs attached to a mansard or other sloped roof of a main building are permitted, when such signs are parallel to the building wall and do not extend above the ridge line or beyond the extremities of the roof to which they are attached.
- (4) *Signs suspended from portions of buildings.* Signs suspended from a covered vehicle driveway, covered walkway or covered entranceway to a building are permitted, when such signs are provided with an underclearance of not less than ten feet.
- (5) *Freestanding signs.* One freestanding sign is permitted along each street frontage of 100 feet or more in length, when the main building on the lot is set back 25 feet or more from the street line along such frontage, provided that:
 - a. Where more than one freestanding sign is permitted on a lot having multiple street frontages, the distance between freestanding signs on the same lot shall be not less than 100 feet.
 - b. No freestanding sign shall exceed 50 square feet in area or 20 feet in height, except that freestanding signs identifying shopping centers shall not exceed 75 square feet in area.

- c. No freestanding sign shall be located within 100 feet of any lot in a residential district, or within ten feet of any street line, other property line, alley or driveway intersecting a street.
- (6) *Permitted area of signs.* The aggregate area of all signs located on a lot, other than a lot devoted to a shopping center, shall not exceed one square foot for each lineal foot of lot frontage on a public street. In the case of lots having more than one frontage on a public street, the maximum permitted sign area shall be determined by the frontage having the greatest dimension.
- a. In the case of a shopping center, the maximum area of signs attached to any portion of a building devoted to a particular tenant shall not exceed one square foot for each lineal foot of building frontage devoted to such tenant. In addition thereto, each shopping center shall be permitted freestanding signs subject to the restrictions set forth in subsection (5) of this subsection.
 - b. In no case shall the provisions of this subsection be construed to restrict any lot or any tenant in a shopping center to less than 50 square feet of sign area.
- (d) *Permitted signs in B-2 and M-1 districts.* The following signs shall be permitted in the B-2 general business and M-1 light industrial districts:
- (1) *Signs permitted in residential districts.* Any sign permitted in the R-1, R-2 and R-3 residential districts as set forth in subsection (b) of this section is permitted in the B-2 and M-1 districts. Signs identifying uses which are permitted in the R-1, R-2 or R-3 district shall be subject to the regulations set forth in subsection (b) of this section.
 - (2) *Signs permitted in B-1 district.* Any sign permitted in the B-1 limited business district as set forth in subsection (c) of this section is permitted, subject to all of the regulations applicable in the B-1 district, except that no freestanding sign shall exceed 100 square feet in area or 35 feet in height.
 - (3) *Signs projecting from buildings.* Signs attached to and projecting from a wall of a main building are permitted. Such signs shall not project beyond any property or street line and shall be provided with an underclearance of not less than ten feet.
 - (4) *Billboard signs.* Billboard signs as defined in article I of this chapter are permitted, provided that the following requirements shall be met:
 - a. No billboard sign shall exceed 100 square feet in area.
 - b. No billboard sign shall exceed a total height of 15 feet.
 - c. No two billboard signs shall be located less than 200 feet apart along the same side of a street or highway.
 - d. No billboard shall be located within 15 feet of any street line or within 100 feet of any intersection of street lines or any boundary of a residential district.
 - (5) *Permitted area of signs.* The aggregate area of all signs located on a lot, other than a lot devoted to a shopping center, shall not exceed two square feet for each lineal foot of lot frontage on a public street. In the case of lots having more than one frontage on a

public street, the maximum permitted sign area shall be determined by the frontage having the greatest dimension. In the case of a shopping center, the maximum area of signs attached to any portion of a building devoted to a particular tenant shall not exceed two square feet for each lineal foot of building frontage devoted to such tenant. In addition thereto, each shopping center shall be permitted freestanding signs subject to the restrictions generally applicable to freestanding signs in the B-2 and M-1 districts.

(e) *Permitted signs in B-3 district.* The following signs shall be permitted in the B-3 central business district:

- (1) *Signs permitted in residential districts.* Any sign permitted in the R-1, R-2 and R-3 residential districts as set forth in subsection (b) of this section is permitted in the B-3 district. Signs identifying uses which are permitted in the R-1, R-2 or R-3 district shall be subject to the regulations set forth in subsection (b) of this section.
- (2) *Signs permitted in B-1 district.* Any sign permitted in the B-1 limited business district as set forth in subsection (c) of this section is permitted, subject to all of the regulations applicable in such district.
- (3) *Signs projecting from buildings.* Signs attached to and projecting from the face of a main building are permitted, provided that:
 - a. Such signs shall project not more than five feet from the face of the building, and not more than one sign with a projection greater than 15 inches from the face of a building wall shall be permitted on each building wall.
 - b. Such signs shall not extend above the wall to which they are attached and shall be provided with an underclearance of not less than ten feet.
 - c. Projecting signs may extend over a street right-of-way, but shall not extend beyond a vertical plane two feet inside the curblineline or edge of pavement of the street, and shall conform with all other applicable requirements of the Virginia Uniform Statewide Building Code.
- (4) *Permitted area of signs.* The aggregate area of all signs located on a lot, other than a lot devoted to a shopping center, shall not exceed one square foot for each lineal foot of lot frontage on a public street. In the case of lots having more than one frontage on a public street, the maximum permitted sign area shall be determined by the frontage having the greatest dimension.
 - a. In the case of a shopping center, the maximum area of signs attached to any portion of a building devoted to a particular tenant shall not exceed one square foot for each lineal foot of building frontage devoted to such tenant. In addition thereto, each shopping center shall be permitted freestanding signs subject to the restrictions generally applicable to such signs in the B-3 district.
 - b. In no case shall the provisions of this subsection be construed to restrict any lot or any tenant in a shopping center to less than 50 square feet of sign area.

(f) *Signs permitted in any district.* The following signs shall be permitted in any district, subject to the restrictions indicated:

- (1) *Directional signs.* Directional signs, as defined in article I of this chapter, shall be permitted in any district. Such signs shall be exempt from regulations pertaining to freestanding signs and shall not be included in calculations determining the aggregate area of permitted signs. No freestanding directional sign shall be located within five feet of any street line.
- (2) *Temporary merchandising signs.* Temporary signs, as defined in article I of this chapter, installed for the purpose of merchandising or announcing a sale or promotion and not exceeding eight square feet in area shall be permitted in any district and shall not be included in calculations determining the aggregate area of permitted signs. Temporary signs which exceed eight square feet in area or do not otherwise conform to the definition thereof shall be subject to all sign regulations and restrictions applicable in the district in which they are located.

(g) *Portable signs.* Portable signs, as defined in article I of this chapter, shall be permitted only in the business and industrial districts. Such signs shall be subject to all of the regulations applicable to permanently installed freestanding signs in the district in which they are located, provided that no portable sign shall be illuminated except in conformance with applicable electrical codes.

(h) *Animated signs prohibited.* Animated signs, as defined in article I of this chapter, shall not be permitted in any district.

(i) *Illumination of signs.* Illumination of signs shall conform to the restrictions set forth in section 66-151, and no bulb, lamp or other source of illumination shall be directly exposed to any street, alley, driveway or adjacent property.

(j) *Signs identifying nonconforming uses.* One sign identifying a nonconforming use located in a residential district shall be permitted, provided that such sign shall be attached flat against the building occupied by such use and shall not exceed eight square feet in area. Signs identifying nonconforming uses located in other districts shall conform to the sign regulations applicable in the district in which the use is located.

(k) *Nonconforming signs.* The following restrictions shall apply to nonconforming signs, as defined in article I of this chapter:

- (1) *Maintenance and alteration.* Except as otherwise provided in this section, a nonconforming sign may remain and may be maintained and repaired, provided that such sign shall not be moved, replaced, structurally altered, or modified as to size, shape or height except in conformity with the provisions of this section. The face of a nonconforming sign or the copy thereon may be changed when all other provisions of this section are met.

- (2) *Signs nonconforming due to lighting or animation.* Any sign which is nonconforming due to lighting or animation shall be eliminated or made to conform with the regulations pertaining to lighting or animation.
- (3) *Nonconforming portable or temporary signs.* Any nonconforming portable sign or nonconforming temporary sign shall be eliminated or made to conform with the regulations set forth in this section.
- (4) *Removal of obsolete signs.* Any sign which identifies or pertains to a use which has vacated the premises on which such sign is located or any freestanding sign structure which no longer contains any message shall be removed from the premises within 90 days from the date on which the use to which it pertains last occupied the premises.

(1) *Permits required.* No permanent sign shall be erected or installed after March 26, 1991, unless a zoning permit for such installation has been approved by the zoning administrator after confirmation that such sign conforms with all applicable provisions of this chapter. In the case of signs for which permits are required by the Virginia Uniform Statewide Building Code, compliance with the provisions of that code and approval by the building official shall also be required.

(Code 1997, § 66-143; Ord. of 11-23-1993, § 19.1-33)

State law references—Nonconforming uses generally, Code of Virginia, § 15.2-2307; nonconforming uses outside municipal boundaries, Code of Virginia, § 15.2-1101; outdoor advertising in sight of public highways, Code of Virginia, § 33.1-351 et seq.; permitting unlawful sign, advertisement or advertising structure, Code of Virginia, § 33.1-374; Uniform Statewide Building Code, Code of Virginia, § 36-97 et seq.

Sec. 66-144. Supplementary yard regulations.

(a) *Exceptions to yard requirements.* Front, side and rear yard requirements shall not apply to fences or walls not exceeding 6 1/2 feet in height, or to permitted signs and customary yard ornaments and accessories, except as provided in section 66-145, pertaining to visibility at intersections. Fences and walls exceeding 6 1/2 feet in height shall be construed as structures, and shall be subject to all yard requirements.

(b) *Permitted projections into required yards.* The following features may project into required yards to the extent specified:

- (1) *Certain architectural features.* Sills, belt courses, eaves, normal roof overhangs, chimneys, pilasters and similar architectural features of a building may project into required yards.
- (2) *Uncovered porches, steps, etc.* Uncovered porches, steps, landings, patios, decks and similar building features may project into required yards, provided such features do not exceed a height of 30 inches above the adjacent natural ground level. Covered building projections, and projections 30 inches or greater in height, shall be subject to all yard requirements.

(c) *Yards on corner lots and through lots.* The following provisions shall apply to corner lots and through lots as defined in article I of this chapter:

- (1) *Front and street side yards on corner lots.* On a corner lot in any district in which a front yard is required, a front yard shall be provided along at least one street frontage, and a street side yard of not less than the side yard requirement in the district, and in no case less than 15 feet, shall be provided along all other street frontages, provided that:
 - a. There shall be a front yard along any street frontage opposite the principal entrance to a dwelling use;
 - b. There shall be a front yard along the frontage on any street along which a front yard is required for an adjacent lot. The depth of such front yard shall be not less than the minimum required front yard on the adjacent lot or the actual front yard provided on the adjacent lot, whichever is less. For the purposes of this subsection, an adjacent lot shall be deemed to be a lot which abuts or lies directly across an alley from the lot in question and which has frontage along the same street as the lot in question.
- (2) *Front yards on through lots.* On through lots, there shall be a front yard as required in the district along each street frontage.
- (3) *Rear yards on corner lots.* Where more than one front yard is required on a lot, yards other than those along street frontages shall be considered side yards, and no rear yard shall be required. On a corner lot in the B-3 central business district, a rear yard as required in the district shall be provided opposite the lot frontage with the least dimension.

(d) *Yards along streets less than 50 feet in width.* The required front yards and street side yards set forth in the district regulations and elsewhere in this section are applicable adjacent to public streets having a right-of-way width of 50 feet or greater. The required depth of any front yard or street side yard along a public street having a right-of-way of less than 50 feet in width shall be increased by 25 feet from that which is stated in the district regulations or elsewhere in this section, and shall be measured from the centerline of the street right-of-way instead of from the right-of-way line.

(e) *Yards for swimming pools and tennis courts.* Swimming pools, pool deck areas and tennis courts shall not be located within required front and side yards. A swimming pool, pool deck area or tennis court situated within 50 feet of any adjacent property in a residential district shall be screened from view from such property by solid fencing or evergreen vegetative material not less than six feet in height.

(Code 1997, § 66-144; Ord. of 11-23-1993, § 19.1-34)

Sec. 66-145. Visibility at intersections.

(a) On a corner lot in any district other than the B-3 central business district, nothing that would materially obstruct the vision of operators of motor vehicles shall be erected, placed, planted or allowed to grow between the heights of 30 inches and eight feet above the grade of

the intersection of the centerlines of the adjacent intersecting streets within the following described area: a triangular-shaped area on the ground bounded on two sides by the street lines abutting the lot, and bounded on the third side by a line joining points on the street lines 25 feet from the point of their intersection.

(b) The purpose of this section is to prohibit the planting of shrubbery or low trees or the construction of solid fences, walls or other structures that would block the visibility of oncoming vehicles to motorists at a street intersection.

(Code 1997, § 66-145; Ord. of 11-23-1993, § 19.1-35)

Sec. 66-146. Supplementary height regulations.

(a) The height regulations set forth in this chapter shall not apply to church spires, belfries, cupolas, antennas attached to buildings, water towers, ventilators, chimneys, flues or similar appurtenances or mechanical structures attached to a building and not intended for human occupancy.

(b) The height of permitted public buildings, churches, and broadcast and communications towers may exceed the maximum height limit applicable in the district in which they are located, provided that all required yards are increased a minimum of one foot for each one foot of building or structure height in excess of the height limit applicable in the district.

(Code 1997, § 66-146; Ord. of 11-23-1993, § 19.1-36)

Sec. 66-147. Accessory buildings.

(a) *Location, use and construction.* The following restrictions shall apply to the location, use and construction of accessory buildings:

- (1) *Location and use generally.* An accessory building shall be located on the same lot as the main building to which it is accessory. Use of an accessory building shall be limited to purposes incidental and subordinate to the use of the main building on the lot.
- (2) *Use for dwelling purposes.* No accessory building shall be used for dwelling purposes except by domestic employees or caretakers whose principal occupation is rendering services on the premises for the benefit of persons who occupy or use the main building on the lot.
- (3) *Required permits; relation to main building.* No accessory building shall be constructed or located on a lot until a building permit has been obtained, and no permanent accessory building shall be constructed until a permit for construction of the main building has been issued. No permanent accessory building shall be used, except for temporary storage of materials related to construction on the premises, until the main building is completed and a certificate of use and occupancy is issued.

(b) *Yards.* Except as provided in this subsection, no accessory building shall be located within any required yard.

- (1) *Location in rear yard.* An accessory building not exceeding 12 feet in height may be located within a required rear yard, but not within five feet of any lot line.

(2) *Location in side yard.* An accessory building not exceeding 12 feet in height may be located within a required side yard, other than a required street side yard, but not within five feet of any lot line. An accessory building attached to an accessory building on the adjoining lot shall not be subject to the side yard requirement.

(c) *Height.* No accessory building shall exceed the height of the main building located on the lot, nor shall any accessory building exceed the maximum permitted height in the district in which it is located. (Code 1997, § 66-147; Ord. of 11-23-1993, § 19.1-37)

Sec. 66-148. Parking or storage of recreational vehicles in residential districts; use of recreational vehicle for dwelling purposes.

No recreational vehicle shall be parked or stored in any required front yard, street side yard or side yard on any lot located in a residential district, nor shall any recreational vehicle be occupied for dwelling purposes outside of an approved travel trailer park. (Code 1997, § 66-148; Ord. of 11-23-1993, § 19.1-38)

Sec. 66-149. Parking or storage of trucks and commercial vehicles in residential districts.

No truck or commercial vehicle that exceeds an empty weight of 5,000 pounds as identified for vehicle registration purposes shall be parked or stored outside of a completely enclosed building on any lot located in a residential district, except while in the process of loading or unloading or providing service on the premises. (Code 1997, § 66-149; Ord. of 11-23-1993, § 19.1-39)

Sec. 66-150. Location of satellite dishes in residential districts.

No satellite dish shall be located in any required front yard, street side yard or side yard on any lot in a residential district. (Code 1997, § 66-150; Ord. of 11-23-1993, § 19.1-40)

State law reference—Access of tenant to cable, satellite and other television facilities, Code of Virginia, § 55-248.13:2.

Sec. 66-151. Outdoor lighting.

Outdoor lighting, when provided as accessory to any use or to illuminate any sign or similar device, shall be located, directed or shielded so as not to shine directly on nearby properties or to create a potential traffic hazard on adjacent streets as a result of glare or similarity to or confusion with traffic signals, warning lights or lighting on emergency vehicles. The exterior of a building, structure or portion thereof shall not be illuminated by outlining such building, structure or portion thereof with lights, except for temporary seasonal decoration purposes.

(Code 1997, § 66-151; Ord. of 11-23-1993, § 19.1-41)

Sec. 66-152. Mural regulations.

(a) *Intent and objectives.* The intent of this section is to regulate the location, construction and manner of display of murals in order to preserve the aesthetic appeal of the town and to promote appropriate visual expression by defining what constitutes a mural. To achieve its intended purpose, this section has the following objectives:

- (1) Encourage the design and placement of private murals for public display that promote or enhance the character of the town;
- (2) Differentiate between signs, graffiti and murals;
- (3) Prevent visual expression that may be offensive, is of a political nature or is derogatory.

(b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section:

- (1) Sign is a publicly displayed board, placard bearing information, warning or advertising. Signs may be a device, structure, fixture or placard using graphics, symbols, and/or written copy designed specifically for the purpose of advertising or identifying an establishment, product, or service, or activity provided on the site on which the sign is located. (The definition of a sign is further defined as contained in article I, section 66-1). Article V, section 66-143 contains the sign regulations of the various types of signs that can be erected, constructed, installed or attached in the specific zoning district.
- (2) Graffiti are writings or drawings that have been scribbled, scratched, or painted illicitly on a wall or other surface (prohibited).
- (3) Mural is defined as a picture, especially a large one, painted directly on a wall or ceiling, or a large photograph or canvas attached directly to a wall.
 - a. Type 1: An original one-of-a kind unique design or representation which does not contain promotional or commercial advertising painted or drawn on a wall.
 - b. Type 2: An original, one-of-a-kind unique design or representation which contains limited references to the establishment, product, or service provided on the site which is painted or drawn on a wall on that site.

Type 2 murals may be allowed if:

1. The graphics, words, and/or symbols referencing the establishment, product or service are limited in scope and dominance, and are not readily construed as commercial advertising. References must be subtle and integrated into the overall mural design.
2. The references to an establishment, product or service are not to be in the form of traditional building signage. Traditional signs on the same wall will be reviewed under applicable sign requirements.

(c) *Mural regulations.*

- (1) Type 1 and type 2 murals are allowed only in the following zoning districts, subject to the restrictions set forth in this section:
 - a. Limited Business (B-1);
 - b. General Business (B-2);
 - c. Central Business (B-3);
 - d. Light Industrial (M-1).
- (2) Murals may not be placed on the primary facade of the structure.
- (3) Murals may only be placed directly on unimproved concrete, concrete block, brick facades, wood, metal and vinyl siding. However, should the applicant desire to have a mural constructed off-site in moveable panels to be installed on said facade, the attachments of said panels must comply with applicable building codes, subject to required permits and inspection; must not cover window or door openings unless properly sealed in compliance with the applicable building codes. The attachment devices must not compromise the structural integrity of the surface to which the panels are attached, and said panels must be securely attached to prevent failure due to weather conditions, vandalism or age.
- (4) Murals shall be maintained in good repair, free from peeling paint or damage due to age, weather, vandalism or the like. Failure to maintain a mural in good repair may result in notification by the town zoning administrator and, if necessary, appropriate enforcement action by the town, including recovery of related expenses for enforcement.
- (5) Murals shall not contain words (in any language), symbols or representations that are obscene, offensive, of a political nature or are derogatory.
- (6) Prior to installation of a mural, the property owner, or tenant (with written permission of the property owner) shall apply for a determination of whether the proposed design or representation is a sign, a type 1 mural or a type 2 mural and, if the proposed design or representations is a type 2 mural, whether it complies with the requirements of this section.
- (7) The application with fee, as determined by town council, shall be forwarded to the town zoning administrator who shall conduct an administrative review of the application and design for compliance with this section, and a recommendation of approval/disapproval or referral to a mural review committee for an advisory decision to the town council.
- (8) Town council will appoint a three person mural review committee consisting of the town manager/zoning administrator and two town business owners. The town manager/zoning administrator will serve as the chairman. If a mural application is referred to the mural review committee, it shall issue an advisory decision based upon the zoning ordinance to the town council for a final determination of the

application. The mural review committee, at its discretion, may refer the mural design to the planning commission and/or professional mural artist for further review prior to its decision to the town council.

(9) Following determination:

- a. If the proposed design or representations is determined to be a sign, the applicant shall comply with all further review and requirements of chapter 66, article V, section 66-143, Sign Regulations, before creating or installing the sign.
- b. If the proposed design or representations is determined to be a type 1 mural, the applicant shall be informed of approval and no further review or action is necessary before creating or installing the mural.
- c. If the proposed design or representations is determined to be a type 2 mural the applicant shall be informed of the approval or needed changes before creating or installing the mural to meet the criteria of a type 2 mural.

(10) Where numbers of signs or maximum square footages apply to a particular location, a mural shall not count as a sign nor figure into the allowable sign area.

(d) *Penalties and remedies for violations.* Any person violating any provisions of this section shall be deemed responsible for a civil infraction. Penalties may be imposed as set forth in article VII, section 66-230, town zoning ordinance.

(Ord. of 4-26-2016)

Secs. 66-153—66-180. Reserved.

ARTICLE VI. NONCONFORMING USES AND FEATURES*

Sec. 66-181. Continuation generally.

Subject to the limitations and restrictions set forth in this article, nonconforming uses and nonconforming features of uses and buildings may be continued. The terms nonconforming

use and nonconforming feature as used in this article shall have such meaning as designated in article I of this chapter.

(Code 1997, § 66-181; Ord. of 11-23-1993, § 19.1-50)

Sec. 66-182. Extension of nonconforming use.

No nonconforming use shall be extended, enlarged or moved so as to occupy a different or greater area of land or buildings than was occupied by and actively devoted to such use at the

***State law references**—Nonconforming uses generally, Code of Virginia, § 15.2-2307; nonconforming uses outside municipal boundaries, Code of Virginia, § 15.2-1101.

time it became nonconforming, provided that a nonconforming use may be extended throughout such portion of land or such part of a building which was lawfully and manifestly arranged, designed and intended for such use at the time it became nonconforming. (Code 1997, § 66-182; Ord. of 11-23-1993, § 19.1-51)

Sec. 66-183. Change of nonconforming use.

A nonconforming use of land or a nonconforming use of a building may be changed to another use which is of the same or a more restricted classification under the terms of this chapter or may be changed to any use which conforms with the use regulations of this chapter. Whenever a nonconforming use has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed back to the original nonconforming use or to any use which is less restricted by the terms of this chapter. (Code 1997, § 66-183; Ord. of 11-23-1993, § 19.1-52)

Sec. 66-184. Discontinuance of nonconforming use.

Whenever a nonconforming use of land or a nonconforming use of a building is discontinued for a period of more than 24 consecutive months, whether or not equipment or fixtures intended for such use are removed, any subsequent use shall conform with the use regulations of the district in which the property is located. (Code 1997, § 66-184; Ord. of 11-23-1993, § 19.1-53)

Sec. 66-185. Change to building devoted to nonconforming use.

No building or portion of a building devoted to a nonconforming use shall be enlarged, extended, structurally altered, reconstructed or moved, unless such building or portion of a building is thereafter devoted to a use which conforms with the use regulations of this chapter.

Nothing in this article shall be construed to prohibit normal repair, maintenance or nonstructural alteration of a building devoted to a nonconforming use or the alteration, strengthening or restoring of a building to a safe condition as may be required by law. (Code 1997, § 66-185; Ord. of 11-23-1993, § 19.1-54)

Sec. 66-186. Change to building having nonconforming feature.

A building which is devoted to a conforming use and is nonconforming with respect to the yard, height, bulk or area regulations of this chapter or other feature required by this chapter may be enlarged, extended or structurally altered, provided that such enlargement, extension or structural alteration does not increase the degree or extent of any nonconforming feature of the building. An increase in the height of a building or portion of a building which is nonconforming with regard to a yard requirement shall be deemed to be an increase in the extent of the nonconforming yard feature of the building. (Code 1997, § 66-186; Ord. of 11-23-1993, § 19.1-55)

Sec. 66-187. Damage to building devoted to nonconforming use or to building having nonconforming feature.

(a) *Damage exceeding 60 percent of value.* Whenever a building devoted to a nonconforming use or a building having a nonconforming feature is damaged by any cause whatsoever to an extent greater than 60 percent of its most recent assessed taxable value, such building shall not be restored, repaired, reconstructed or used except in conformance with all of the applicable provisions of this chapter, unless authorized by the board of zoning appeals as set forth in subsection (b) of this section.

(b) *Special exception.* Subject to the following conditions, the board of zoning appeals shall have the authority to grant a special exception under the provisions of article IX of this chapter for the restoration, repair, reconstruction or reuse of a building damaged by fire, explosion, act of God or the public enemy to an extent greater than 60 percent of its most recent assessed taxable value:

- (1) The board may only authorize such restoration, repair, reconstruction or reuse to an extent that does not constitute any greater deviation from the provisions of this chapter than existed prior to the damage.
- (2) Before granting any special exception, the board shall receive testimony and make a finding that restoration, repair or reconstruction of the building will not unreasonably impair light and air to adjoining property, will not impair established property values in the immediate area and will not otherwise be detrimental to the health, safety and general welfare of the public.
- (3) In the case of restoration, repair, reconstruction or reuse of a building devoted to a nonconforming use, the board shall, in addition to the criteria set out in subsections (b)(1) and (2) of this section, make a finding that the continued operation of such nonconforming use is in the public interest and is reasonably necessary for the welfare and convenience of the general public.

(c) *Damage not exceeding 60 percent of value.* Whenever a building devoted to a nonconforming use or a building having a nonconforming feature is damaged by fire, explosion, act of God or the public enemy to an extent of 60 percent or less of its most recent assessed taxable value, such building may be restored, repaired, reconstructed and used as before the damage, provided that such restoration, repair or reconstruction shall not increase the degree or extent of any nonconforming feature or increase the area devoted to any nonconforming use that existed prior to the damage and shall be completed within 24 months of the date of damage as evidenced by issuance of a certificate of use and occupancy.

(Code 1997, § 66-187; Ord. of 11-23-1993, § 19.1-56)

State law reference—Powers of board of zoning appeals as to special exceptions, Code of Virginia, § 15.2-2309.

Sec. 66-188. Nonconforming dwelling use.

Any dwelling use which is located in a business or industrial district and which becomes a nonconforming use under the provisions of this chapter may be maintained, improved, structurally altered, enlarged or moved, or may be reconstructed if damaged by fire, explosion, act of God or the public enemy. In no case shall the amount of floor area devoted to the dwelling use at the time of its inclusion in a business or industrial district be increased by greater than 50 percent; nor shall the number of dwelling units located on the property be increased; nor shall the lot area, lot width or yard dimensions be reduced to less than would be required for such dwelling use in the R-3 general residential district. (Code 1997, § 66-188; Ord. of 11-23-1993, § 19.1-57)

Sec. 66-189. Intermittent or illegal uses and features.

Intermittent, casual, temporary or illegal uses of land or buildings and temporary or illegal features of uses or buildings shall not be construed to establish the existence of a nonconforming use or a nonconforming feature for the purposes of this article. (Code 1997, § 66-189; Ord. of 11-23-1993, § 19.1-58)

Sec. 66-190. Determination of existence of nonconforming use or feature.

The zoning administrator shall have the authority to determine whether a nonconforming use or a nonconforming feature of a use or building exists in accordance with the provisions of this chapter. An appeal from any decision of the zoning administrator regarding such determination may be taken to the board of zoning appeals by any person aggrieved by such decision pursuant to the provisions of article IX of this chapter. (Code 1997, § 66-190; Ord. of 11-23-1993, § 19.1-59)

Secs. 66-191—66-220. Reserved.

ARTICLE VII. ADMINISTRATION AND ENFORCEMENT* Sec.

66-221. Appointment of zoning administrator.

The provisions of this chapter shall be administered and enforced by an officer to be known as the zoning administrator who shall be an employee of the town designated by the town

***State law reference**—Administration and enforcement of zoning ordinance, Code of Virginia, § 15.2-2286(A)(4).

council. The zoning administrator shall have all necessary authority to carry out the duties prescribed in this chapter on behalf of the town council. It shall be the responsibility of all other appointed officers and employees of the town to cooperate with the zoning administrator in the execution of such duties.

(Code 1997, § 66-221; Ord. of 11-23-1993, § 19.1-60)

Sec. 66-222. Duties of zoning administrator.

(a) *Interpretation.* Subject to appeal to the board of zoning appeals pursuant to the provisions of article IX of this chapter, the zoning administrator shall be the final authority as to the interpretation of the provisions of this chapter.

(b) *Review and approval of zoning permits.* The zoning administrator shall review all applications for zoning permits required by the provisions of this chapter and shall approve or disapprove such applications based on compliance or noncompliance with the provisions of this chapter.

(c) *Review and approval of plans of development.* The zoning administrator shall review all applications for plans of development as required by this chapter, and shall approve or disapprove such plans based on compliance or noncompliance with the provisions of this chapter, or, in the case of plans of development required by the provisions of section 66-226 to be approved by the planning commission, shall review such plans and provide a report to the commission.

(d) *Correction of violations.* The zoning administrator shall use his or her best endeavors to prevent violations of the provisions of this chapter and to detect and secure the correction of violations. The zoning administrator shall order in writing remedy of conditions found to be in violation, including the discontinuance of illegal uses of land and buildings, the removal or bringing into compliance of illegal buildings, structures, additions and alterations, and the discontinuance of illegal work being done. The zoning administrator shall provide to the town attorney a copy of every such order, and the town attorney shall have the authority to initiate such legal action to ensure compliance and prevent violations as may be authorized by the laws of the state.

(e) *Records.* The zoning administrator shall maintain records of all official actions taken with respect to the administration and enforcement of this chapter, and shall retain copies of all zoning permit applications and accompanying plans and information as a permanent record.

(f) *Other duties.* The zoning administrator shall have such other duties with respect to the administration of this chapter as are specifically set forth elsewhere in this chapter.

(Code 1997, § 66-222; Ord. of 11-23-1993, § 19.1-61)

Sec. 66-223. Zoning permit.

(a) *Required.* No building shall be constructed, erected, enlarged, structurally altered, moved or converted to accommodate a different use, nor shall any permanent sign be erected or installed, nor shall any use of land or buildings be established, changed to a different use or expanded to occupy a greater area of land or buildings, until a zoning permit for such building, sign or use has been approved by the zoning administrator.

(b) *Application and plans.* Applications for zoning permits shall be submitted to the zoning administrator by the owner of the property involved or by an agent of the owner, with the written consent of the owner, in accordance with the following provisions:

- (1) *General requirements.* Applications for zoning permits shall be made on forms provided for such purpose by the zoning administrator, and shall be accompanied by plans drawn to scale and in such number as required by the zoning administrator, showing, with dimensions, lot lines, yards, the location of buildings on the lot, required parking spaces, and such other information as deemed necessary by the zoning administrator to provide for the enforcement of the provisions of this chapter. Plans shall contain suitable notations indicating the proposed use of all buildings and land. The zoning administrator may waive any of the plan requirements set forth in this subsection when the particular information is clearly unnecessary to determine compliance with the provisions of this chapter and to establish sufficient record of the application.
- (2) *Plan of development.* Every zoning permit application involving construction of a new building, enlargement of an existing building, or modifications to the parking or vehicular circulation system on a site shall be accompanied by a plan of development as required by the provisions of section 66-226.

(c) *Expiration.* A zoning permit shall be valid for a period of one year from the date of approval by the zoning administrator and shall become null and void if, within such period, no building permit or certificate of use and occupancy pursuant thereto has been issued by the building official. In a case where no building permit or certificate of use and occupancy is required by applicable law, a zoning permit shall become null and void if, within one year from the date of its approval, the use, activity or feature authorized by such zoning permit has not been established.

(d) *Provisional approval.* To the extent that such action does not conflict with the provisions of the Virginia Uniform Statewide Building Code, the zoning administrator may grant provisional approval of a zoning permit or provisional approval in conjunction with a certificate of use and occupancy under the following conditions:

- (1) Provisional approval may be granted only where lack of compliance with the provisions of this chapter is of a temporary nature and involves only site-related improvements such as landscaping, vegetative screening or paving which cannot reasonably be completed due to seasonal or weather conditions. In such instance, the zoning administrator shall be satisfied that the premises involved are physically suitable for use and occupancy in terms of access, availability of required parking and drainage.
- (2) Such provisional approval shall be in writing and shall state the nature of the incomplete work and the time period within which the work is to be completed, which in no case shall exceed six months. Provisional approval shall expire at the end of such stated period, and, if the work is not completed, a violation of the terms of this chapter shall be deemed to exist.

(Code 1997, § 66-223; Ord. of 11-23-1993, § 19.1-62)

Sec. 66-224. Issuance of building permits.

No building permit required by the provisions of the Virginia Uniform Statewide Building Code shall be issued until a zoning permit as required by section 66-223 has been approved by the zoning administrator and the building official has been provided with a copy thereof. (Code 1997, § 66-224; Ord. of 11-23-1993, § 19.1-63)

State law reference—Uniform Statewide Building Code, Code of Virginia, § 36-97 et seq.

Sec. 66-225. Issuance of certificates of use and occupancy.

No certificate of use and occupancy required by the provisions of the Virginia Uniform Statewide Building Code shall be issued for any building or portion thereof until a zoning permit as required by section 66-223 has been approved by the zoning administrator and the building official has been provided with a copy thereof. In a case where a zoning permit has been approved in conjunction with a building permit for the building or portion thereof, an additional zoning permit shall not be required, provided that the certificate of use and occupancy shall not be issued until it has been determined by the zoning administrator that the construction and use are in conformance with the previously approved zoning permit and all applicable provisions of this chapter.

(Code 1997, § 66-225; Ord. of 11-23-1993, § 19.1-64)

State law reference—Uniform Statewide Building Code, Code of Virginia, § 36-97 et seq.

Sec. 66-226. Plan of development.

(a) *Purpose; levels of approval.*

- (1) The purpose of the requirements for submission and approval of a plan of development in conjunction with the application for a zoning permit is to provide sufficient plans and information and opportunity for review to ensure compliance with the regulations contained in this chapter. To accomplish this purpose, plans of development are required to be approved either by the zoning administrator or by the planning commission, depending on the complexity of the regulations applicable to the proposed development and the potential impacts of the development on the site, adjacent properties and public streets. The procedure for review and approval at each level of the plan of development shall vary, depending on whether the authority for approval is vested in the zoning administrator or the planning commission.
- (2) The plan of development approval process set forth in this section is in addition to the plan of development and related requirements set forth in Chesapeake Bay Preservation Area overlay district regulations. Although in many instances both processes will be applicable to a particular development, they are intended to accomplish different purposes. It is the intent of this chapter that, to the extent possible, the administration of both processes be coordinated and conducted concurrently to minimize the time involved in review and approvals and avoid unnecessary duplication of information, plans and studies.

(b) *Applicability.* Approval of a plan of development shall be required prior to or at the time of approval of every zoning permit involving construction of a new building, enlargement of an existing building, or modifications to the parking or vehicular circulation system on a site. A plan of development shall not be required for a change in use of an existing building when no enlargement of the building and no modifications to the parking or vehicular circulation system on the site are to be made. No zoning permit or other authorization to improve or develop land shall be approved or issued in any instance where a plan of development is required until such plan of development has been approved in accordance with the applicable provisions of this section.

(c) *Procedure for review and approval.* Plans of development shall be reviewed and approved in accordance with the following procedures:

- (1) *Approval by zoning administrator.* Except where approval by the planning commission is specifically required by subsection (2) of this subsection or by the district regulations set forth in article IV of this chapter, plans of development shall be approved by the zoning administrator. The zoning administrator shall review each plan of development for compliance with the applicable provisions of this chapter and shall approve, approve with modifications or conditions, or disapprove the plan of development within 30 days of receipt of all required plans and information.
- (2) *Approval by planning commission.*
 - a. A plan of development approved by the planning commission shall be required when any of the following circumstances exist:
 1. When more than one main building is to be situated on a lot.
 2. When land or buildings are to be devoted to commercial or industrial use.
 3. When access to a site is to be provided by means other than an improved public street.
 4. When the district regulations specifically require planning commission approval of a plan of development for any use.
 - b. The zoning administrator shall forward each application for such plan of development to the planning commission within 15 days of receipt of all required plans and information, along with a report indicating the manner in which the plan of development complies or does not comply with the provisions of this chapter and a recommendation for action to be taken by the commission.
 - c. The commission shall consider such application at its first regular meeting following submission by the zoning administrator. The commission shall take final action within 60 days of receipt of the application, unless the applicant requests additional time to consider or prepare revised plans.
 - d. The planning commission shall have the authority to approve, approve with modifications or conditions, or disapprove the plan of development, provided that all decisions of the planning commission shall be pursuant to and consistent with the applicable provisions of this chapter.

- e. The planning commission shall communicate its action to the zoning administrator, who shall approve or reject the zoning permit in accordance with the commission's action.

(d) *Compliance with district regulations.* All plans of development shall comply with the district regulations, supplementary regulations and all other requirements of this chapter, including the requirements of the Chesapeake Bay Preservation Area overlay district regulations, which are applicable to the use in the district in which it is situated. Neither the zoning administrator nor the planning commission shall have any authority to waive such requirements unless specific authority to do so is set forth in this chapter.

(e) *Preliminary approvals.* The zoning administrator or the planning commission, depending on their respective jurisdictions in such matters as set forth in subsection (c) of this section, may grant preliminary approval of plans of development, which shall be of an informal nature for purposes of providing advice and guidance to the applicant and shall not be binding on future formal actions. Applicants shall be encouraged to seek such preliminary approval or other advice and guidance prior to preparing plans of development for formal consideration. Such preliminary approval shall be conditioned on final approval in accordance with the procedures specified in this article, and shall not be the basis for the issuance of any permits or authorization to commence development of any building or site.

(f) *Plan submission requirements.* Plans of development shall be submitted in such numbers as required by written policy of the planning commission, and shall include plans, drawn to scale, with the following information:

- (1) Location map showing the subject property in relation to adjacent streets, water bodies, subdivisions, political boundaries and zoning patterns, and identifying the uses of adjacent properties and names of owners.
- (2) Site plan of the subject property showing its boundaries, the uses, locations and dimensions of existing and proposed buildings, yards, open spaces, landscaping, fences and other means of screening, buffers, recreation facilities, pedestrian walkways, means of access to the site, the arrangement of on-site circulation and parking and the locations of signs.
- (3) Existing and proposed easements, utilities and drainage facilities, water bodies, wetlands and other natural features on the site, including major tree masses and steep slopes.
- (4) Elevation drawings of proposed buildings and signs.
- (5) General floor plan drawings showing building ingress and egress and the general arrangement and function of spaces within the building.
- (6) Such additional information as may be necessary to determine compliance or noncompliance with specific development standards and requirements applicable to the development.

With prior approval by the zoning administrator, particular information may be omitted from required plans and drawings when, due to the nature and limited scope of a project, such information is not necessary for building permit purposes and, in the opinion of the zoning administrator, is not necessary for thorough review and evaluation of the plan of development.

(g) *Development standards.* The following development standards and improvement requirements shall apply and shall be specified, where applicable, on all plans of development:

- (1) All public street and highway construction standards and geometric design standards shall be in accordance with the requirements of the state department of transportation.
- (2) On-site vehicular travel lanes and driveways shall have widths of not less than 20 feet for two-way traffic and 16 feet for one-way traffic. Driveways providing access to required parking spaces shall be of such width as necessary to conform with the requirements of this chapter pertaining to off-street parking, provided that driveways which provide direct access to perpendicular parking spaces on both sides thereof shall be not less than 24 feet in width.
- (3) Driveways and areas for the parking and circulation of vehicles shall be arranged and designed so as to provide for safe and convenient access and circulation on the site and with respect to abutting streets and adjacent properties. The number of driveways from public streets shall be the minimum necessary to provide adequate access and circulation, and whenever possible common driveways serving abutting sites shall be provided. Means of access to the site and circulation on the site shall be suitable to accommodate firefighting apparatus and other emergency vehicles.
- (4) Sites devoted to commercial uses such as fast food restaurants, banks, auto washes and similar uses which provide drive-up or drive-through facilities for customers shall be designed and arranged to meet the requirements of this chapter pertaining to off-street parking and waiting space for vehicles. Such waiting space shall be located and arranged so as to avoid the blocking of required parking spaces or access thereto and so as not to cause obstruction of vehicular circulation on the site or of traffic on the adjoining public streets. The planning commission shall have the authority to require greater waiting space for vehicles than set forth in article V of this chapter when in its judgment the particular circumstances of the use, the location of the site or traffic conditions on abutting streets warrant.
- (5) Space for the loading and unloading of trucks and other vehicles shall be provided on sites developed for commercial and industrial uses. Such loading areas shall be so located on the site and shall be of such dimensions as not to occupy or obstruct access to any required parking spaces or to obstruct any public street or roadway or any fire lane or emergency access route during the loading or unloading of vehicles. When necessary to meet these criteria, designated loading areas and adequate maneuvering space shall be provided on the site.

- (6) Sidewalks or pedestrian walkways shall be provided so as to enable safe and convenient pedestrian access between buildings located on the site, between buildings and their parking areas and between buildings and public sidewalks.
- (7) The natural landscape and topography of the site shall be preserved to the extent possible by minimizing grading and retaining mature trees and significant vegetative features. Appropriate ground cover, trees and other vegetation shall be planted and maintained to prevent excessive stormwater runoff, erosion, siltation and dust, and to enhance the general appearance of the site.
- (8) Buildings shall be arranged on the site so as to respect the established development pattern in the immediate area, so that the fronts of buildings containing dwelling units do not face into the rears or the service areas of other buildings and so that the rears or service areas of buildings are not oriented toward public streets, unless screening is provided.

(h) *Amendments or modifications.* Any amendment of substance to an approved plan of development shall be processed, reviewed and acted upon in the same manner as an original plan of development. Minor modifications to the site details of an approved plan of development may be authorized by the zoning administrator when such modifications do not significantly alter the boundaries of the property; conflict with any specific requirement of this chapter or specific condition imposed on the approved plan of development by the planning commission; decrease the width or depth of any yard, setback or buffer area; alter points of access to the property; alter the internal arrangement of site plan elements; or have an appreciable effect on surrounding properties.

(i) *Expiration of plan of development.* An approved plan of development shall become null and void if no building permit to construct the improvements authorized by the plan of development has been issued within one year of the date of approval.

(j) *Appeals.* Any person aggrieved by any decision of the zoning administrator or the planning commission regarding a plan of development may appeal such decision in accordance with the following procedures:

- (1) *Decisions of zoning administrator.* An appeal from a decision of the zoning administrator regarding a plan of development may be made to the board of zoning appeals in accordance with the provisions of article IX of this chapter.
- (2) *Decisions of planning commission.* An appeal from a decision of the planning commission regarding a plan of development may be made to the town council by filing a request in writing with the town clerk within ten days of the date of such decision. The town council shall hear such appeal within 30 days of the date of filing the request. In deciding an appeal, the town council shall have the same authority as is vested in the planning commission by the provisions of this article.

(Code 1997, § 66-226; Ord. of 11-23-1993, § 19.1-65)

State law references—Duties of local planning commissions, Code of Virginia, § 15.2-2221; plan of development, Code of Virginia, § 15.2-2286(A)(8).

Sec. 66-227. Special use permit.

(a) *Purpose of special use procedure.* The purpose of the special use procedure is to provide a means for the town council to authorize, after review and subject to appropriate conditions, certain specified uses which, although generally appropriate in the district in which they are permitted by this chapter, have a potentially greater impact on neighboring properties than those uses which are permitted by right in the district. The special use procedure is intended to provide the opportunity for the planning commission and the town council to review each proposed special use and its potential impacts on surrounding properties and land uses, with special regard for the particular circumstances of each case. It is also intended to provide an opportunity for the planning commission to recommend and for the town council to impose such conditions as are necessary to ensure that the use will be compatible with the surrounding area and consistent with the intent of the particular district and the purposes of this chapter.

(b) *Permit required.* A use indicated as permitted as a special use by any of the district regulations set forth in article IV of this chapter shall be authorized only upon approval of a special use permit by the town council. No zoning permit, building permit or certificate of use and occupancy for a special use or for a building devoted to a special use shall be issued unless a special use permit for such use has been approved in accordance with the provisions of this article. Any use for which a special use permit is required shall not be subject to the requirements of section 66-226 pertaining to plans of development.

(c) *Application.* Applications for special use permits shall be submitted to the zoning administrator on forms provided by the zoning administrator for such purpose. When special use permit applications for biosolids or animal wastes are submitted, a nutrient and nuisance management plan and/or other necessary action plans shall be required. Applications may be filed by the owner of the property or, with the written consent of the owner, the contract purchaser of the property or any agent of the owner.

(d) *Required plans.* Special use permit applications shall be accompanied by plans in such numbers as determined by written policy of the town council. When special use permit applications for biosolids or animal wastes are submitted, a nutrient and nuisance management plan and other necessary action plans shall be required. Plans shall contain such information as specified in section 66-226(f) pertaining to plans of development. The zoning administrator shall not have authority to waive any of the plan requirements.

(e) *Process for review and approval.* The process for review and approval of special use permit applications shall be as follows:

- (1) *Review by zoning administrator.* Upon receipt of a special use permit application and after review of the application, the zoning administrator shall notify the town council of the application and forward to the planning commission the application, plans and related materials. The zoning administrator shall also submit to the planning commission a report indicating the manner in which the proposed special use complies or does not comply with the applicable provisions of this

chapter, and any recommendations the zoning administrator may have regarding approval, disapproval or conditions to be attached to the proposed use or plans.

- (2) *Recommendation of planning commission.* Following receipt of a special use permit application, the planning commission shall give public notice, including written notice to parties in interest, as required by the provisions of Code of Virginia, § 15.2-2204, as amended, and shall hold a public hearing on the application. After conducting a public hearing and reviewing the application for compliance with the provisions of this chapter, the planning commission shall make a recommendation to the town council. The planning commission may recommend approval or disapproval, or that additional requirements or conditions be attached in accordance with the provisions of subsection (f) of this section. The planning commission shall take action and forward a report to the town council within 60 days after its public hearing, unless the applicant requests additional time to consider or to prepare revised plans.
- (3) *Action by town council.* Upon receiving the recommendation of the planning commission, the town council shall give notice, including written notice to parties in interest, as required by the provisions of Code of Virginia, § 15.2-2204, as amended, and shall hold a public hearing on the application. The town council may approve or disapprove the application, may accept or modify the conditions recommended by the planning commission, or may attach additional conditions consistent with the provisions of subsection (f) of this section. The town council may also refer the application back to the planning commission for further consideration or advice, and in such case shall specify a time period within which the commission shall report. The action of the town council shall be by resolution, which shall be set forth in writing and preserved among its records.

(f) *Standards and guidelines for approval.* The planning commission and town council shall be guided by the following in the consideration of special use permit applications:

- (1) *Standards.* A special use permit shall be approved only when the town council is satisfied that the use and the operation thereof will not conflict with the objectives of the comprehensive plan; adversely affect adjoining and surrounding property; unreasonably impair light and air, convenience of access or safety from fire, flood and other dangers; create or unreasonably increase congestion on adjacent streets; overburden utilities, public facilities or public services; or conflict with the objectives of the Chesapeake Bay Preservation Act (Code of Virginia, § 10.1-2100 et seq.) or any regulations adopted pursuant thereto; and will not otherwise be contrary to the stated intent and purpose of this chapter.
- (2) *Factors to be considered.* In evaluating and acting upon special use permit applications, the planning commission and the town council shall consider, among other factors, the adequacy of utilities, access and necessary public facilities and services; off-street parking and vehicular circulation; the arrangement of and relationship among elements of the site plan; the extent to which natural vegetation and topographic features are to be retained; and the adequacy of separation, landscaping, buffers, yards and other features to protect adjacent properties from potential adverse effects of the special use.

- (3) *Compliance with district regulations.* Except to the extent that greater requirements may be imposed by the town council pursuant to the provisions of this article, a special use shall comply with the regulations and standards generally applicable within the district in which it is located and with such specific conditions for the particular use as may be set forth in the district regulations.
- (4) *Imposition of conditions.* The planning commission may recommend and the town council may impose such reasonable requirements and conditions as deemed necessary to meet the guidelines set forth in this article and to accomplish the intent and purpose of this chapter.

(g) *Amendments.* Any amendment or change of substance to an approved special use permit shall be subject to the same procedures and standards as for a new application. Minor modifications to an approved site plan or building detail may be authorized by the zoning administrator when such modifications do not significantly alter the boundaries of the property; conflict with specific requirements of this chapter or specific conditions of the approved special use permit; decrease the width or depth of any yard, setback or buffer area; significantly alter points of access to the property or the internal arrangement of site plan elements; or have an appreciable effect on surrounding properties.

(h) *Enforcement.* Special use permits shall be enforced by the zoning administrator in the same manner as other provisions of this chapter. Failure to comply with approved plans or conditions of a special use permit shall constitute a violation of the provisions of this chapter and shall be cause for revocation of the special use permit by the zoning administrator.

(i) *Expiration.* An approved special use permit shall become null and void if no building permit to construct the authorized improvements has been issued within one year of the date of approval by the town council. A special use permit for which no building permit is required shall become null and void if the use is not established within one year of the date of approval by the town council.

(j) *Existing uses.* Any use permitted as a special use in the district in which it is located and for which no special use permit has been approved shall be considered a nonconforming use, provided such use was legally established prior to the effective date of the ordinance from which this chapter is derived.

(Code 1997, § 66-227; Ord. of 11-23-1993, § 19.1-66)

State law reference—Conditional zoning, Code of Virginia, § 15.2-2296 et seq.

Sec. 66-228. Approval of development in Chesapeake Bay Preservation Area overlay district.

(a) *Required approvals.* Except as provided in subsections (b) and (c) of this section, no zoning permit required under the provisions of section 66-223, no plan of development required under the provisions of section 66-226, and no special use permit pursuant to the provisions of

section 66-227 shall be given final approval until the requirements of the Chesapeake Bay Preservation Area overlay district are satisfied and a plan of development and all related plans and studies as required pursuant thereto have been approved by the appropriate authority.

(b) *Conditional plan of development.* When a plan of development is required by section 66-226 to be approved by the planning commission, the planning commission may approve such plan conditioned upon final approval of the plan of development and related plans and studies required by the Chesapeake Bay Preservation Area overlay district regulations, provided that the plan of development approved by the planning commission does not conflict with the provisions of such district regulations. A plan of development approved conditionally by the planning commission shall not become effective until the approvals required under the Chesapeake Bay Preservation Area regulations are granted by the appropriate authority.

(c) *Conditional special use permit.* The town council may approve a special use permit conditioned upon final approval of the plan of development and related plans and studies required by the Chesapeake Bay Preservation Area overlay district regulations, provided that the special use permit does not conflict with the provisions of such district regulations. A special use permit approved with such condition shall not become effective until the approvals required under the Chesapeake Bay Preservation Area regulations are granted by the appropriate authority.

(Code 1997, § 66-228; Ord. of 11-23-1993, § 19.1-67)

State law reference—Chesapeake Bay Preservation Act, Code of Virginia, § 10.1-2100 et seq.

Sec. 66-229. Compliance with approved plans.

Zoning permits, plans of development and special use permits are approved or issued on the basis of approved applications and plans, and shall authorize only the construction, arrangement and use set forth by such approved applications and plans. Any construction, arrangement or use not in compliance with that which is specifically authorized by approved applications and plans shall be deemed a violation of this chapter. (Code 1997, § 66-229; Ord. of 11-23-1993, § 19.1-68)

Sec. 66-230. Violations and penalties.

Any violation of the provisions of this chapter shall be a misdemeanor punishable upon conviction by a fine of not less than \$10.00 and not more than \$1,000.00, or such other penalty as may be authorized by the laws of the state.

(Code 1997, § 66-230; Ord. of 11-23-1993, § 19.1-69)

State law reference—Penalty for violations, Code of Virginia, § 15.2-2286(A)(5).

Sec. 66-231. Fees.

A filing fee in such amount as established by general rule by the town council shall accompany each application for a zoning permit, plan of development and special use permit. (Code 1997, § 66-231; Ord. of 11-23-1993, § 19.1-70)

State law reference—Collection of fees, Code of Virginia, § 15.2-2286(A)(6).

Sec. 66-232. Structure maintenance, demolition and removal.

(a) Upon the request of the Town of Montross, the following provisions of this section may be enforced by Westmoreland County officials:

- (1) Unoccupied or burned buildings, unsafe walls, open wells or other structures which endanger the public health or safety shall be repaired, secured or removed to eliminate such endangerment. Prior to removal of a building, property owners shall have an opportunity to establish the historical significance of any structure or property. Should such significance be present, the property owner must obtain state or federal listing of its historic status and restore or rehabilitate associated structures.
- (2) The owner of property having structures which endanger the public health or safety shall have reasonable notice and time to perform the necessary work to correct problems noted by the governing body or its agent. Notice shall include:
 - a. Certified or registered mail, return receipt requested, sent to last known address of the property owner; and
 - b. Publication of violation of notice and intent to act once a week for two consecutive weeks in a newspaper having general circulation in the town. The county will consult with the town and secure bids prior to any action to remove or secure any unoccupied or burned building, unsafe wall, open well or any other structure. No action shall be taken by the county to remove or secure any unoccupied or burned building, unsafe wall, open well or any other structure for at least 30 days following the later of the return of the receipt or newspaper publication or notification to proceed by the town council. Costs of mailing, advertising and removal or securing of such structures shall be the responsibility of the town.
- (3) In the event the town, through its agents or employees, removes or secures any unoccupied or burned building, unsafe wall, open well or any other structure after complying with the notice provisions of this section, the cost or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the locality as taxes are collected. Every charge authorized by this section, with which the owner of any such property has been assessed and which remains unpaid, shall constitute a lien against such property owner ranking on parity with liens for unpaid local taxes.

(Ord. of 2-27-2007(2))

Secs. 66-233—66-260. Reserved.

ARTICLE VIII. AMENDMENTS*

Sec. 66-261. Generally.

Whenever public necessity, convenience, general welfare or good zoning practice require, and subject to the procedures and requirements set forth in Code of Virginia, §§ 15.2-2204,

***State law references**—Advertisements, hearings and notices required for amendments, Code of Virginia, § 15.2-2204; zoning ordinance may provide for amendments, Code of Virginia, § 15.2-2286(A)(7); preparation and adoption of amendments, Code of Virginia, § 15.2-2285.

15.2-2285 through 15.2-2288 and 15.2-2303, as amended, the regulations, restrictions and district boundaries established by this chapter may be amended, supplemented, changed or repealed by ordinance adopted by the town council. Any ordinance to amend the provisions of this chapter shall be enacted in the same manner as all other ordinances. (Code 1997, § 66-261; Ord. of 11-23-1993, § 19.1-71)

Sec. 66-262. Initiation.

Amendments to this chapter may be initiated by any of the following methods:

- (1) *Resolution of town council.* The town council may, by its own resolution, initiate an ordinance to amend any of the provisions of this chapter, including the zoning district map. Such resolution shall state the public purpose for the amendment.
- (2) *Motion of planning commission.* The planning commission may, by adoption of a motion, initiate an amendment to any of the provisions of this chapter, including the zoning district map. Such motion shall state the public purpose for the amendment. The motion shall be forwarded to the town council, which shall cause an ordinance to be prepared for its consideration.
- (3) *Petition of property owner.* A petition to change the zoning classification of property by amendment to the zoning district map may be filed by the owner of such property or, with the written consent of the owner, the contract purchaser of the property or any agent of the owner. Such petition shall be addressed to the town council or the planning commission, which shall forward such petition to the council, and shall be filed with the town clerk in a format prescribed by the town clerk for such purpose. The petition shall be accompanied by the required fee and a certified plat, legal description or such other documentation as may be prescribed by written policy established by the town council. The town clerk shall forward the petition to the town council, which shall cause an ordinance to be prepared for its consideration.

(Code 1997, § 66-262; Ord. of 11-23-1993, § 19.1-72)

State law reference—Initiation of amendments, Code of Virginia, § 15.2-2286(A)(7).

Sec. 66-263. Action by planning commission.

(a) *Review and recommendation.* No ordinance to amend the provisions of this chapter shall be acted upon by the town council unless the amendment has been referred to the planning commission for its review and recommendation. The planning commission may recommend that the town council adopt or reject the proposed amendment or may recommend changes in the proposed amendment. Failure of the planning commission to consider the amendment and report to the town council within 90 days after the first meeting of the planning commission after the amendment was referred to it shall be deemed to be a recommendation of approval, unless the amendment has been withdrawn by the applicant prior to the expiration of such time period.

(b) *Public notice and hearing.* Before taking action on any amendment referred to it by the town council, the planning commission shall give public notice as required by Code of Virginia, § 15.1-431, as amended, and shall hold a public hearing thereon. The town clerk shall submit a copy of the related petition and accompanying materials, along with a written report describing the intent and general effect of the amendment, to the planning commission prior to its scheduled public hearing.

(Code 1997, § 66-263; Ord. of 11-23-1993, § 19.1-73)

State law reference—Action by planning commission, Code of Virginia, § 15.2-2285(B).

Sec. 66-264. Action by town council.

(a) *Public notice and hearing.* Before taking action on any ordinance to amend the provisions of this chapter, the town council shall give public notice as required by Code of Virginia, § 15.2-2204, as amended, and shall hold a public hearing thereon. In the case of a proposed amendment to the zoning district map, the public notice shall state the general usage and density range permitted by the proposed amendment and the general usage and density range set forth in the comprehensive plan for the corresponding area.

(b) *Final action.* After receiving a report from the planning commission and after giving public notice and holding a public hearing, the town council may adopt or reject the proposed amendment, or may make appropriate changes or corrections to the amendment, provided that no land may be zoned to a more intensive use classification nor shall a greater area of land be rezoned than was described in the public notice without referral to the planning commission and an additional public hearing after public notice as required by Code of Virginia, § 15.2-2204, as amended.

(c) *Continuance or withdrawal.* Final action on any proposed amendment may be continued by the town council for good cause, provided that all resolutions, motions or petitions for amendments to the provisions of this chapter shall be acted upon and a decision made by the council within one year of the date of such resolution, motion or petition. This provision shall not apply if the petitioner requests or consents in writing to action beyond such period or if the

resolution, motion or petition initiating the amendment is withdrawn by providing written notice to the town clerk. In the case of withdrawal, no further action on the amendment shall be necessary.

(Code 1997, § 66-264; Ord. of 11-23-1993, § 19.1-74)

State law reference—Action by governing body, Code of Virginia, § 15.2-2285(C).

Sec. 66-265. Joint public hearing.

The town council and the planning commission may hold a joint public hearing on any proposed amendment, subject to the public notice requirements of Code of Virginia, § 15.2-2204, as amended.

(Code 1997, § 66-265; Ord. of 11-23-1993, § 19.1-75)

Sec. 66-266. Filing of new petition after rejection.

Upon rejection by the town council of any proposed amendment to the zoning district map by petition of a property owner, contract purchaser or agent of a property owner, substantially the same petition shall not be considered again by the council within one year of the date of such rejection.

(Code 1997, § 66-266; Ord. of 11-23-1993, § 19.1-76)

Sec. 66-267. Fees.

A filing fee in such amount as established by general rule by the town council shall be submitted with each petition to change the zoning classification of property. (Code 1997, § 66-267; Ord. of 11-23-1993, § 19.1-77)

State law reference—Collection of fees, Code of Virginia, § 15.2-2286(A)(6).

Secs. 66-268—66-300. Reserved.

ARTICLE IX. BOARD OF ZONING APPEALS*

Sec. 66-301. Membership and organization.

(a) *Membership; term of office.* Pursuant to the provisions of Code of Virginia, § 15.2-2308, as amended, there shall be a board of zoning appeals which shall consist of five members who shall be residents of the town and shall be appointed by the circuit court. One of the members of the board shall be appointed from among the members of the town planning commission. The terms of the members of the board of zoning appeals shall be five years. Appointments, reappointments, the filling of vacancies and procedures for the removal of members of the board of zoning appeals shall be as set forth in Code of Virginia, § 15.2-2308.

(b) *Officers.* The board of zoning appeals shall elect from among its members a chairman, a vice-chairman who shall serve in the absence of the chairman, and a secretary, all of whom shall serve annual terms and may succeed themselves.

***State law reference**—Boards of zoning appeals, Code of Virginia, § 15.2-2308 et seq.

(c) *Support services.* With the approval of the town council and within the limits of funds that may be appropriated for such purposes, the board of zoning appeals may employ or contract for such clerical, technical or legal services necessary for it to carry out its responsibilities.

(Code 1997, § 66-301; Ord. of 11-23-1993, § 19.1-79)

Sec. 66-302. Procedures.

(a) *Adoption of rules.* The board of zoning appeals shall adopt rules necessary for the conduct of its affairs in keeping with the applicable provisions of this article and the provisions of Code of Virginia, title 15.2, as amended. Copies of such rules shall be available to the public.

(b) *Forms for applications and appeals.* The board of zoning appeals shall see that forms necessary for applications and appeals are available, which forms shall be provided to applicants by the zoning administrator.

(c) *Meetings.* The board of zoning appeals shall hold monthly meetings, which shall be open to the public. The board may also hold such additional meetings as it deems necessary in accordance with its rules. The chairman of the board may cancel any regular monthly meeting if, by the filing deadline for applications and appeals, there is no business to be brought before the board. All meetings and other activities of the board shall be conducted in accordance with applicable provisions of the Virginia Freedom of Information Act (Code of Virginia, § 2.1-340 et seq.).

(d) *Public hearings.* The board of zoning appeals shall make no decision on any application or appeal until it has conducted a public hearing after giving public notice as required by the provisions of Code of Virginia, § 15.2-2204, as amended, which provisions shall be incorporated within or attached to the rules of the board.

(e) *Quorum.* A quorum of not less than a majority of all members of the board of zoning appeals shall be required for the conduct of any hearing and the taking of any action.

(f) *Records.* The board of zoning appeals shall keep minutes of its proceedings, including the vote of each member on each question, and shall keep records of its official actions. Minutes of the board shall include a finding of fact in each case setting forth the reasons of the board of zoning appeals for each action taken. Minutes and records shall be public and shall be filed in the office of the town clerk.

(g) *Annual report.* The board of zoning appeals shall submit an annual report of its activities to the town council.

(Code 1997, § 66-302; Ord. of 11-23-1993, § 19.1-80)

State law reference—Board of zoning appeals to hear and decide appeals, Code of Virginia, § 15.2-2309(1), (3).

Sec. 66-303. Powers and duties.

(a) *Generally.* Pursuant to the provisions of Code of Virginia, § 15.2-2309, as amended, the board of zoning appeals shall have such powers and duties as set forth in this section.

(b) *Appeals.* The board of zoning appeals shall have the power to hear and decide appeals from any order, requirement, decision or determination made by the zoning administrator or any other administrative officer in the administration or enforcement of this chapter. In exercising such power, the board may reverse or affirm, wholly or partly, or may modify an order, requirement, decision or determination appealed from.

(c) *Variances.* The board of zoning appeals shall have the power to authorize upon appeal or original application, in specific cases, such variance as defined in Code of Virginia, § 15.2-2201, as amended, from the terms of this chapter as will not be contrary to the public interest, when, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship, provided that the spirit of this chapter shall be observed and substantial justice shall be done.

- (1) No variance shall be authorized by the board of zoning appeals unless a property owner can show to the satisfaction of the board of zoning appeals that:
 - a. The property was acquired in good faith.
 - b. By reason of the exceptional narrowness, shallowness, size or shape of the property on March 26, 1991, or on the effective date of an amendment to this chapter, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or of the condition, situation or development of property immediately adjacent thereto, the strict application of the terms of this chapter would effectively prohibit or unreasonably restrict the utilization of the property; or that the granting of the variance requested will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant.
- (2) No variance shall be authorized by the board of zoning appeals unless it finds from the evidence presented that:
 - a. Such variance will be in harmony with the intended spirit and purpose of this chapter.
 - b. The strict application of this chapter would produce undue hardship, and such hardship is not shared generally by other properties in the same zoning district and in the same vicinity as the subject property.
 - c. The authorization of such variance will not be of substantial detriment to adjacent property, and the character of the district will not be changed by the granting of the variance.
 - d. The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the town council as an amendment to this chapter.
 - e. The variance will not include a departure from the use regulations set forth in this chapter.

- (3) In the authorization of a variance, the board of zoning appeals may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.

(d) *Interpretation of zoning district map.* The board of zoning appeals shall have the power to hear and decide applications for interpretation of the zoning district map where there is any uncertainty as to the location of a district boundary, and where the rules for interpretation of district boundaries set forth in article III of this chapter do not satisfactorily resolve such uncertainty. After notice to the owners of the property affected by any such question, and after public hearing with notice as required, the board of zoning appeals may interpret the map in such way as to carry out the intent and purpose of this chapter for the particular section or district in question. The board of zoning appeals shall not have the power to change substantially the locations of district boundaries established by this chapter.

(e) *Special exceptions.* The board of zoning appeals shall have the power to hear and decide applications for such special exceptions as may be specifically authorized elsewhere in this chapter. The board of zoning appeals may impose such conditions relating to the use for which a permit is granted as it may deem necessary in the public interest, including limiting the duration of a permit, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.

(Code 1997, § 66-303; Ord. of 11-23-1993, § 19.1-81)

Sec. 66-304. Prohibition on rezoning of property.

No provision of this article shall be construed as granting the board of zoning appeals the power to rezone property, which power shall be vested in the town council. (Code 1997, § 66-304; Ord. of 11-23-1993, § 19.1-82)

State law reference—Similar provisions, Code of Virginia, § 15.2-2309(5).

Sec. 66-305. Appeal procedure.

(a) *Persons who may file appeal.* An appeal to the board of zoning appeals pursuant to section 66-303(b) may be taken by any person aggrieved or by any officer of the town affected by any decision of the zoning administrator or by any order, requirement, decision or determination made by any other administrative officer in the administration or enforcement of this chapter.

(b) *Filing of appeal.* An appeal shall be taken within 30 days after the decision appealed from by filing with the zoning administrator and with the secretary of the board of zoning appeals a notice of appeal specifying the grounds thereof. Copies of the notice of appeal shall also be submitted to any other individual, officer, department or agency involved in the appeal. The zoning administrator shall forthwith transmit to the secretary of the board all papers and other materials constituting the record upon which the action appealed from was taken.

(c) *Stay of proceedings.* An appeal to the board of zoning appeals shall stay all proceedings in furtherance of the action appealed from unless the zoning administrator certifies to the board of zoning appeals that, by reason of facts stated in the certificate, a stay would in his or her opinion cause imminent peril to life or property, in which case proceedings shall not be stayed other than by a restraining order granted by the board of zoning appeals or by a court of record, on application and with notice to the zoning administrator, and for good cause shown. (Code 1997, § 66-305; Ord. of 11-23-1993, § 19.1-83)

State law reference—Appeals to board of zoning appeals, Code of Virginia, § 15.2-2311.

Sec. 66-306. Applications for variances, interpretation of zoning district map and special exceptions.

(a) *Persons who may file.* Applications for variances, interpretation of the zoning district map and special exceptions may be made by any property owner, tenant, government official, department, board or bureau on forms provided for such purpose by the board of zoning appeals.

(b) *Submission of applications.* Applications shall be submitted to the zoning administrator in accordance with rules adopted by the board of zoning appeals. The zoning administrator shall promptly transmit all applications and accompanying maps and documents to the secretary of the board of zoning appeals, who shall place the matter on the docket of the board. The zoning administrator shall also transmit copies of all applications to the town planning commission, which may send a recommendation to the board of zoning appeals or appear as a party at the hearing.

(c) *Reconsideration of applications.* Substantially the same application for a variance, interpretation of the zoning district map or special exception which has been decided by the board of zoning appeals shall not be considered again by the board within one year of the date of its decision, except that the board of zoning appeals may, pursuant to its rules, reconsider an application if it finds that new or additional information is available which would have a direct bearing on the case and which could not reasonably have been presented at the initial hearing.

(Code 1997, § 66-306; Ord. of 11-23-1993, § 19.1-84)

State law reference—Applications for special exceptions and variances, Code of Virginia, § 15.2-2310.

Sec. 66-307. Public hearings and decisions.

(a) *Procedure and notice.* The board of zoning appeals shall fix a reasonable time for the hearing of an appeal or application and give public notice thereof as required by the provisions of Code of Virginia, § 15.2-2204, as amended. The board of zoning appeals shall also give written notice at least five days prior to the hearing to the appellant or applicant and to the owners, or their agents, of the property involved in the appeal or application and of all abutting properties and property immediately across the street from the property involved. The board of zoning appeals shall decide each appeal or application within 90 days of the filing of such appeal or application.

(b) *Vote of board.* The concurring vote of not less than three members of the board of zoning appeals shall be necessary to reverse any order, requirement, decision or determination of an administrative officer, or to decide in favor of the applicant in any matter or to grant any variance.

(c) *Oaths and witnesses.* The chairman of the board of zoning appeals or, in his or her absence, the acting chairman, may administer oaths and compel the attendance of witnesses. (Code 1997, § 66-307; Ord. of 11-23-1993, § 19.1-85)

State law reference—Procedure on appeal, Code of Virginia, § 15.2-2312.

Sec. 66-308. Expiration of variance or special exception.

A variance or special exception granted by the board of zoning appeals shall lapse and be of no effect if, after the expiration of one year from the date of such action, no construction or change in use pursuant to such variance or special exception has taken place. The board of zoning appeals may, however, for good cause shown, specify a longer period of time in conjunction with its action to grant a variance or special exception. (Code 1997, § 66-308; Ord. of 11-23-1993, § 19.1-86)

Sec. 66-309. Amendment of variance or special exception.

The procedure for amendment of a variance or special exception granted by the board of zoning appeals, including any changes in the conditions attached thereto, shall be the same as for a new application.

(Code 1997, § 66-309; Ord. of 11-23-1993, § 19.1-87)

Sec. 66-310. Enforcement of decisions.

Decisions of the board of zoning appeals shall be administered and enforced by the zoning administrator. Noncompliance with any action taken by the board of zoning appeals, including conditions imposed by the board, shall constitute a violation of the provisions of this chapter. (Code 1997, § 66-310; Ord. of 11-23-1993, § 19.1-88)

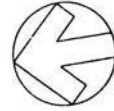
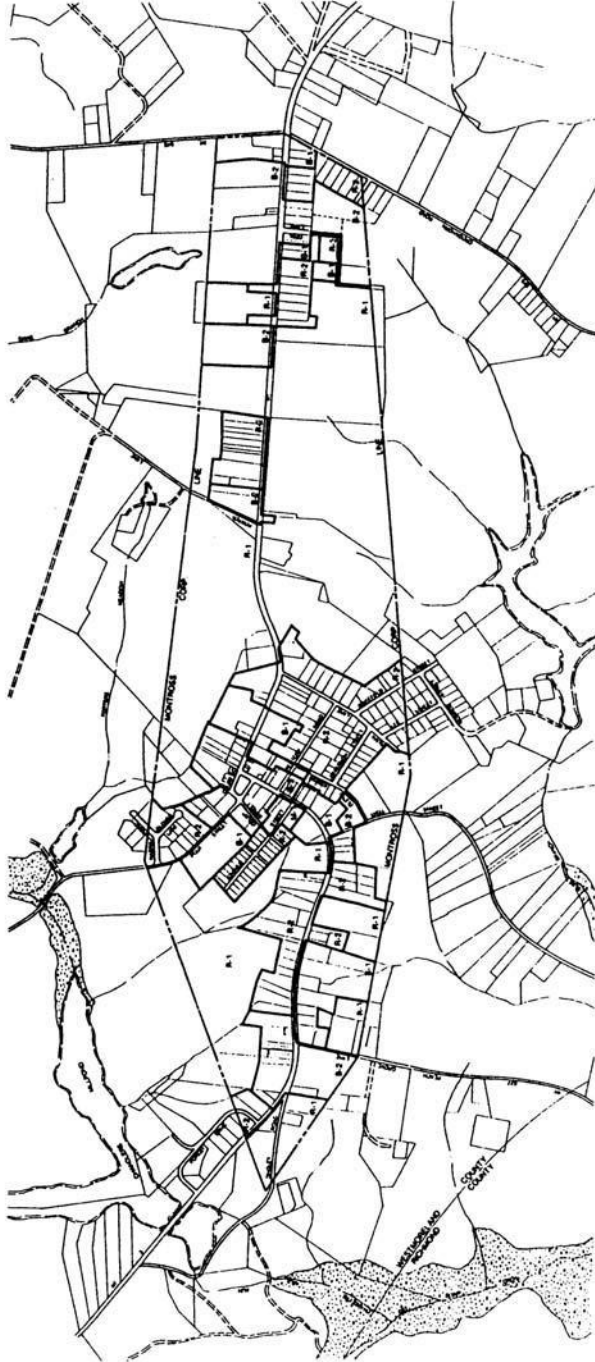
Sec. 66-311. Appeals from decisions of board.

Appeals from decisions of the board of zoning appeals shall be presented to the circuit court in accordance with the procedures set forth in Code of Virginia, § 15.2-2314, as amended. Any person or persons jointly or severally aggrieved by any decision of the board of zoning appeals, or any taxpayer, or any officer, department, board or bureau of the town, may present to the circuit court a petition specifying the grounds on which aggrieved within 30 days after the filing of the decision in the office of the board of zoning appeals. (Code 1997, § 66-311; Ord. of 11-23-1993, § 19.1-89)

Sec. 66-312. Fees.

A filing fee in such amount as established by general rule by the town council shall be submitted with each appeal to the board of zoning appeals and each application for a variance, interpretation of the zoning district map or special exception. (Code 1997, § 66-312; Ord. of 11-23-1993, § 19.1-90)

State law reference—Collection of fees, Code of Virginia, § 15.2-2286(A)(6).



Town Planning Commission
 GRAPHIC SCALE IN FEET

TOWN PLANNING COMMISSION
 APPROVED BY:
 TOWN PLANNING COMMISSION
 MONTESS, VIRGINIA

- LEGEND**
- RESIDENTIAL
 - R-1 Rural Residential
 - R-2 Single-Family Residential
 - R-3 General Residential
 - BUSINESS
 - B-1 Limited Business
 - B-2 General Business
 - B-3 Central Business
 - INDUSTRIAL
 - I-1 Light Industrial

**ZONING DISTRICT MAP
 TOWN OF MONTESS, VIRGINIA**

DATE: 10/15/2014 10:00 AM

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